

THE WHOLE
TRIALL
OF
M^r Christopher Love, *#*

BEFORE
A pretended High Court of Justice
in Westminster Hall.

Containing

The Charge of High Treason against him. De-
bates between the Court and him before his pleading to
the Charge. The several depositions of the Witnesses.
Mr. Loves Defence to the Charge and Evidence. Mr. Ser-
jeant Hales (a learned Counsell) his Plea against the
Charge and Evidence. And the Sentence.

WITH

The Relation of his Suffering, and his Speech and Prayer
at his Death upon the Scaffold on Tower-hill.

Published by John Farthing Citizen of London, who took the Triall in the
said Court in Short-writing for Mr. Love, and at his own request.

To which is added,

The Tragedy of his Triall and Death in very elegant Verses
By the acute Author of *Iter Boreales*

London, Printed in the Year, 1660,

JOHN W. H. O. L. I.

OF

JAN 23 1911



T O T H E R E A D E R.

Reader,

How hast here a true and impartiall account of the Proceedings of the High Court of Justice (so called) against that faithfull Servant and Minister of Christ M. Christopher Love, a man of so much and such known worth while he lived, and of so good a name and memory now dead, that as any thing I can say of him would signifie little, so I shall be wholly silent in it: What and how extreme the Proceedings of the Court were against him, will by this that follows sufficiently appear, especially if thou dost but considerately peruse M. Loves defence, and the Plea of that honourable Gentleman, and his then faithfull Counsell M. Serjeant Hales, against both the Charge and Evidence. This triall was formerly printed, but not till now made thus publick, the times not bearing it. The Court took a severe course to have prevented the publishing of it, as being (it seems) conscious to themselves of their own foul and false play therein; and did therefore every day commit my very Notes to the Tower, (though they did not prove to be under such strict keeping, but that I had the liberty of giving them severall visits) not that I think every one of the Court should fall under the same consideration, for there were divers of them (as I am certainly informed,) that would not at all have appeared in it, but upon the

earnest solicitation of some nearly related to M. Love, and that only in order (if it could have been) to the saving of his life. My aim in now publishing this Triall, is not that it should prove an injury to or an irritation of any, but partly a little to revive the memory of that now blessed servant of God (though I know the righteous shall be had in everlasting remembrance) and partly that the world maybe somewhat acquainted with the manner of proceedings of our high Courts of Justice, especially when they have been erected (as it is too too apparent ours have been) only to feed the malice, and serve the corrupt and unjust interests, of ambitious and mercileß men.

J. F.

The Trial of Master L o v e before the High Court of Justice in Westminster Hall.

June 20. 1651.

THe Court being set and called over, the Lieutenant of the Tower was commanded to bring forth his Prisoner; and Master Love was brought to the Bar. After the reading of divers late acts of Parliament concerning Treason, Master Prideaux, the Attorney generall for the Common-wealth spake as followeth:

Attur. Gen. My Lord, you have heard severall Acts of Parliament read, and the offences therein mentioned. My Lord, I have here a Charge against Mr. Love, the Prisoner at the Bar, and I humbly desire that it may be read likewise; and you may please to take his Reply to it, whether by Confession or otherwise. *The Clerk is commanded to read the Charge.*

The Clerk.

A Charge of high Treason, and other high Crimes and Offences, exhibited to the high Court of Justice by Edmond Prideaux, Attorney Generall for the Commonwealth of England, for and on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, against Christopher Love late of London Clerk, by him preferred and commenced against the said Christopher Love.

That is to say,

That he the said Christopher Love, as a false Traytor and enemy of this Common-wealth and free State of England; and out of a trayterous and wicked designe, to stir up a new and bloody war, and so raise insurrections, seditions, and rebellions within this Nation, did in severall daies and times; that is to say, in the years of our Lord 1648, 1649, 1650, 1651. at London, and at divers other places within this Common-wealth of England, and elsewhere, (together with William Drake late of London Mercer, Henry Jermin late of London Esquire, Henry Piercy late of London Esquire, John Gibbons late of London Gentleman, Edward Massey late of London Esquire, Richard Graves late of London Esquire, Syllas Titus late of London Gentleman, James Bunce late of London Alderman, and other their accomplices (yet unknown) trayterously and maliciously combine, confederate, and conspire, contrive and endeavour to stir and raise up forces against the present Government of this Nation, since the same hath been settled in a Common-wealth and free State without a King and House of Lords, and for the subversion and alteration of the same.

And the better to carry on and accomplish their said trayterous and wicked designe, he the said Christopher Love, together with the said William Drake, Henry Jermin, Henry Piercy, Richard Graves, Edward Massey, John Gibbons, Syllas Titus, James Bunce, and others (since the death of Charles Stewart, late King of England, who for his notorious treasons, and other tyrannies and murders by him committed in the late unnatural and cruel war, was, by Authority derived from Parliament, justly condemned to death, and executed) severall daies and times in the respective years aforesaid, at London aforesaid, and at sundry other places of this Common-wealth, and since this Nation was settled in the way of a Common-wealth or free State, as aforesaid, did trayterously and maliciously declare, publish, and promote Charles Stewart, the eldest Son of the late King of England, to be King of England (meaning this Common-wealth) without the consent of the people in Parliament, first had and signified by Authority and Ordinances to that purpose.

And further, to carry on and accomplish their said trayterous and wicked designe, he the said Christopher Love

B

The Charge of high Treason against Mr. Love.

Love, on severall daies and times in the respective yeers aforesaid, at London aforesaid, and in divers other places within this Common-wealth of England, and elsewhere, together with the said William Drake, Henry Jermin, Henry Piercy, Richard Graves, Edward Massey, John Gibbons, Sylas Titus, James Bunch, and other their accomplices, as aforesaid, did traiterously and maliciously invite, aid, and assist the Scots, being forrainers and strangers, to invade this Common-wealth of England, and adbert to the forces of the enemy raised against the Parliament and Common-wealth aforesaid, and Keepers of the Liberties of England aforesaid.

And further, to carry on and accomplish the said traiterous and wicked design, be the said Christopher Love divers daies and times between the xxviii ninth day of March, 1650, and the first day of June, 1651, at London and other places, as aforesaid, did traiterously and maliciously give, hold, use and maintain correspondence and intelligence, by Letters, Messages, Instructions, and other waies prejudiciall to this Common-wealth, with the said Charles Stewart, Son of the late King, and with the late Queen his mother, and with the said Henry Jermin, Henry Piercy, and divers other persons being of counsell and abiding with Charles Stewart.

And further, to carry on and accomplish the said traiterous and wicked design, be the said Christopher Love severall daies and times in the respective yeers aforesaid, at London aforesaid, and divers places within this Common-wealth of England and elsewhere, as aforesaid, did traiterously and maliciously use, hold, and maintain correspondence and intelligence with divers persons of the Scottish Nation; that is to say, with the Earls of Argile, Lowden, Lothian, and Belcharris, and with one Bayley Gentleman, and divers other persons of the Scottish and other Nations, whom be the said Christopher Love well knew to adhere to the said Scottish Nation in this war against the Parliament and Common-wealth of England.

And further, be the said Christopher Love, within the times, and at the places before mentioned, did traiterously and maliciously abet, assist, countenance and encourage both the Scottish Nation, and divers other persons adhering to them in this war against the Parliament; and did send and convey, or cause to be sent and conveyed, Monies, Arms, Ammunition, and other Supplies, to Scotland and other places, and to the said Titus, Massey, and others in confederacy against this Nation, without speciall leave and license from the Parliament of England or Council of State, or the Captain Generall of the Parliaments Forces.

And further, to carry on and accomplish the said traiterous and wicked practice and designe, be the said Christopher Love, within the times, and at the places before mentioned, did traiterously and voluntarily relieve the said Sylas Titus, Edward Massey, Col. Bamfield, and one Mason late of London Gentleman, and one Serks late of London Gentleman, who then were, and yet are under the power of the Scottish Nation, and in Arms against the Parliament and Common-wealth of England, with Monie, Arms, and Ammunition. All which Treasons, and traiterous and wicked practices and designs of him the said Christopher Love, were and are to the apparent hazard of the publick peace of this Common-wealth and free State, Parliament and people of England, and to the manifest breach, contempt, and violation of the Laws of the Land, and contrary to the form of divers Statutes and Acts of Parliament in such case made and provided.

And Master Attorney Generall (by protestation, saving to himself in the behalf of the Keepers of the Liberties of England, to exhibite any other Charge against the said Christopher Love, and to reply to the Answer he shall make to the premises) doth for the said Treasons, on the behalf of the Keepers of the Liberties of England, impeach the said Christopher Love as a Traitor and publick enemy to this Common-wealth and free State of England; and doth pray, that he may be put to answer all and singular the premises, that such proceedings, Triall, Examination, Judgement, and Execution may be thereupon had against him, as shall be agreeable to Justice.

The Clerk. Christopher Love, you stand charged on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, of high Treason, and other high Crimes and Offences against the Parliament and People of England; this high Court therefore requires you to give a positive and direct Answer, whether you are guilty or not guilty of the Crimes and Treasons laid to your charge.

Master Love. My Lord, Before I plead, I humbly crave leave to expresse my self in a few words to this Court, and afterwards to make humble Proposals of what I desire in order to this Trial. In the first place, being I am this day called to a great and weighty work, in the entrance to it I do earnestly beg the prayers of all them that have an interest in God, that he would carry me through this whole Triall with such gravity, godlinesse, and meeknesse of wisdom, as becomes a Professor and Preacher of the Gospel; and that he would keep me in this houre of temptation, rather from sin then from suffering. Sir, I am this day made a spectacle to God, Angels, and men, singled out from among my brethren to be

be the object of some mens indignation and insultation. By my appearing in this place, I am made a grief to many that are godly, and a laughing stock to the wicked. — *Here he was interrupted by the court.*

Lord President of the Courts. Mr. Love, how long time do you intend to take up?

Mr. Love. I will be brief; Sir.

L. Pres. We have been calling upon God to direct us and you, and all good people, that justice may be done; and you would glorify God rather than man, if you would confesse, knowing what was done in that great sin of *Achan*; there was great pains taken, and the whole Nation was fain to be examined, and their houses divided, and at last when it came to *Achan*, you know what *Jehovah* said to him, confesse and tell the truth, and glorify God; this is that, that if you respect God before man, you may now clear your self, and set forth his glory upon earth; and your next work is to plead guilty or not guilty. For we see that those wayes you go, would take up time, and we have taken all into our thoughts before hand.

Mr. Love. I do not desire to protract time, but I would not lie under a prejudice.

L. Pres. When you go out of your way, we must help you; and know, if any be under a prejudice here, their prejudging is rather in mercy, then in prejudice to you.

Mr. Love. I hope you will not be more severe to a Minister, then you were to *Lieut. Col. John Lilburne*. When you were at the court at *Guild-hall*, at the trial of *Lilburne*, you gave him the liberty of two houres to plead before he pleaded guilty or not guilty.

L. Pres. To a Minister, you say well; but I tell you, we do more to a christian then to a minister; and we are all christians, and your ministry is but an Office; and therefore what *Mr. Lilburne* had, it was the favour of the court then; but time is spent, and pray do not you follow that now.

Mr. Love. Whereas your Lordship is pleased to urge the case of *Achan* to me, if my case were the same as *Achans* was, I should do as *Achan* did, confesse and give glory to God; but *Achans* was a peculiar and extraordinary case, and therefore I pray it may not be laid to me. God was the informer and discoverer, and God did by lot discover *Achan* to be the man. *L. Pres.* Will you plead?

Mr. Love. I desire liberty to speak a word. I had not diverted my discourse, but upon your Lordships words.

Att. Gen. My Lord, I hope he will be so ingenuous, as not to be long.

L. Pr. Take this in your way, *Mr. Love*, God is as present here, as he was in the case of *Achan*. Go on.

Mr. Love. Sir, by my appearing in this place, I am made a grief to many that are godly, and a laughing stock to the wicked, and a gazing stock to all; yet, blessed be God, not a terror to my self. Sir, I am as *Jeremiah* was, born a man of strife and contention: not actively, I strive and contend with none; but passively, many strive and contend with me; yet I trust God will make me, as he did *Jeremiah*, an iron pillar and brazen wall against those that do oppose me, that I shall not be dismayed at their faces, lest I be confounded before them. Strong suggestions against me are generally received, and great opposition strongly maintained, and in this condition no man dares stand by me; but God stands by me and strengthens me. — *Here he was interrupted again.*

L. Pres. Sir, come to the business in hand.

Mr. Love. I beseech you, Sir, spare me: you gave *Mr. Lilburne* more time.

Att. Gen. My Lord, when he shall come with such speeches, that are nothing to the business in hand! My Lord, he instances in *Lilburns* case; you know that debate, it was in relation to a Narration.

Mr. Love. Sir, it was the Narration of his doings and sufferings, that he might not be misrepresented to the Court.

Att. Gen. You know you are a Minister; and if it be your purpose to spin out time, to think to ingratiate your self to the people, it will not do. My Lord, this is a Court of Justice that proceeds according to the established Laws, and Laws that have been read to him. *Mr. Love* is a Minister, and had he applied himself to God as he might have done, he need not have been brought hither; if he had not gone that way he did. But my Lord, I desire he may go on to the Charge, and give his answer to it. My Lord, before we have done, we shall have many occasions of discourse between him and I.

Mr. Love. I beseech your Lordship allow me that favour that you allow to every one you try, that I may not stand under misrepresentations to you, who are my Judges.

L. Pres. Are not we of as much credit as you? and are not we judged Ministers as well as you, and more then you? and I tell you, that which you require, we have already done, and wish you as much happiness as to our brother; and for you to spend time about that which is nothing to the business, it must not be suffered.

Att. Gen. My Lord, let the constant known laws of the Commonwealth of England be observed, as well as other laws, of which that is one, that he ought not to speak any thing, till he hath pleaded guilty or not guilty. My Lord, I desire to take my course. I do not make speeches against him, to misrepresent him to you, otherwise then he stands charged; and my Lord, I would not have him to clear himself till he come to the triall, whether he be not accused justly. It is not my nature, but the duty of my place; and the duty of his place, as a prisoner, is to plead, and to put himself upon triall; that being done, there will be occasion enough for him to plead his own innocency. My Lord, to take up two hours time in talking of that which is not materiall, should not be.

M. Love. I insist upon that liberty that Mr. Lilburne had. *L. Pres.* He did plead first.

M. Love. No my Lord, he did not plead first; and I have much to move before I plead.

L. Pres. You can say nothing till you plead.

M. Love. My Lord, I desire not much time.

Att. Gen. My Lord, let the time now insisted on be what time it will, Mr. Love will have time to speak for himself, and it is so far from being to the point, that it is trifling; and this rather makes him seem guilty, then it gives him any acquittance.

M. Love. Prove me guilty first Sir. Sir, do not prejudice me.

Then command was given to read his Arraignment.

The Clerk. Christopher Love, you stand charged on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, of high Treason, and other high Crimes and Offences against the Parliament and People of England; this high Court therefore requires you to give a positive and direct answer, whether you are guilty or not guilty of the Crimes and Treasons laid to your charge.

M. Love. I refuse not to plead, but I beseech you give me leave to speak before I answer.

Mr. Love having a paper in his hand, the Judge said:

L. Pres. How many leaves is it?

M. Love. But two or three; and if this Court be more strict and severe to me, then that was to Mr. Lilburne, I cannot help it. What I shall say, shall be something in generall, and I beseech you give me leave to speak to it.

Att. Gen. Sir, not before you plead.

M. Love. Yet I have this liberty, that when matter of law ariseth in the Indictment, to make a motion, and to move for counsel, and to shew the illegality of it; and though I confesse I am extremely ignorant of the Law, yet I understand, that after I have pleaded, I am not capable of counsell.

L. Pres. You are mistaken, Master Love.

M. Love. I suppose I am not mistaken: For in the third part of Judge Cooks Institutes, I finde it thus: *The prisoner, when he pleads not guilty, whereby he denies the fact, after the plea of not guilty, can have no counsell; but if he have any matter of Law to plead before, he may urge it.*

L. Pres. He pleads he is ignorant of the Law, and yet can make use of it.

M. Love. I am to plead for my life, and I am to use Scripture, Law, and any other lawfull means to save my life. *Paul* did plead the Roman Law.

L. Pres. Some of us know as much of *Paul* and Scripture as you do.

M. Love. Sir, I make no comparisons. *Then Mr. Love reads out of Judge Cooks Institutes.*

The safest way for the party indicted, is to plead upon his arraignment the speciall matter for the overthrow of the Indictment: And this must be done before I plead, and to require counsell for the pleading thereof, which ought to be granted, and to require a copy of so much of the Indictment, which is necessary for framing his plea, which ought to be granted; and these laws ought to be construed favourably, for that the Indictment is commonly found in the absence of the party.

L. Pres. But your Indictment is in your presence. You are out of your way.

M. Love. Sir, you bring me out of my way.

L. Pres. Your Indictment is not yet found, there is nothing done behinde your back, onely the reading of this; but that is nothing but a written parchment, till you plead unto it.

M. Love. I have something to except against the legality of this Indictment.

L. Pres. Go on then.

M. Love. Sir, the first motion I shall make, is for counsell to advise in matters of Law relating to this Triall; and as I do gather from hearing the Indictment, there are severall matters of law that do arise, in which I desire to have counsell assigned me; and the first is, whether the Act by which this Court is consti-

constituted, of the 26 March, 1650. that forbids receiving or sending Letters or Messages to or from England or Ireland, do inable you to receive a charge against me concerning Letters to or from Scotland, Scotland not being mentioned in that Act by which you are constituted; therefore seeing this is matter of law, I desire I might have counsel to advise with about it.

Att. Gen. Mr. Love then doth admit that he hath received and sent letters to Scotland.

M. Love. I admit nothing, Sir, you charge me with it, but I do not grant it.

Att. Gen. Then you will give us leave to prove it. If he will admit that he hath sent and received letters from Scotland, and so demur that it is not in your power, I will joyne with him. But my Lord, there was a particular Act read, that doth relate particularly to Scotland; and that this court hath cognizance of that Act, was read before hand, but Mr. Love did not observe what was read to him; and it is so far in favour of justice to him, that you read him the laws and clauses upon which he stands impeached, and that there is a law against sending to Scotland. But my Lord, these debates are lingering of time; if a man will demand counsel, he admits the fact, that the fact is true; but being true, he ought not to be condemned upon it: if so, I will joyne with him. But if he plead not guilty, I shall be ready to prove it.

M. Love. I beseech you Sir, I do apprehend there is another matter of law arising, and that is from the Act of the 26 March, 1650. there is a prohibition of sending letters or messages to any in arms against the Parliament; now I am charged with sending and writing letters into Scotland: now it doth not appear to me, that Scotland was in arms against the Parliament of England, but for their own preservation. Therefore I desire counsel in this, Whether I that am accused of writing and sending into Scotland, am therefore accused of writing and sending to those who are in arms against the Parliament of England; or whether they were in arms for the preservation of Scotland, or in opposition to the Parliament of England.

Att. Gen. If you will admit still, that you have sent or received from Scotland, then I readily grant it.

M. Love. I will admit of nothing; I have so much of a christian in me, that I will deny nothing that is proved to be true, and so much of an Englishman, that I will admit of nothing that is seemingly criminal.

L. Pres. You are a christian, and you are here in the presence of God as *Achan* was.

M. Love. If it be proved against me.

L. Pres. Then your denial of it will be a high transgression against God.

M. Love. I could urge the case of Jesus Christ, who when he was accused before a Judicatory, answered not a word.

L. Pres. You are out.

M. Love. When Christ was accused in a civil business, to be a mover of sedition (as now I am) they asked him whether he was King of the Jews, and he answered them not a word. But this is that I doubt, whether there be not matters of law arising from the charge read against me, and that in respect of the time of the Act of the 26 March, 1650. which gives power to you to determine severall crimes, and to proceed to the trial of the offender. And Sir, it is also to me doubtfull, whether this be not matter of law, viz. whether this trial ought not to be by a Jury of twelve of the neighbourhood, or whether in any different way from it; and I doubt it upon this ground, your Lordship having given me this hint; for I was present at the trial of Mr. Lilburne, and the formality of the law tied him to plead to this, that he must be tried by God and his Country. He refused it, and your Lordship urged it upon him, that he might safely plead it by God, because God was in all Judicatories; and by his Country, because, said you, by Country is meant the Jury of a mans equals. And this is a trial according to the law of the Land. Now if you have declared that in Guild-Hall, I beseech your Lordship inform me, whether a different way from this of a Jury of the neighbourhood be according to law in Westminster Hall.

L. Pres. You shall be informed. That was a trial by the law, as it then stood; these now are all upon Acts of Parliament and Laws of the Land, that are of as high a nature as they: those are ancient Laws, and these are Statutes lately made, and of an extraordinary nature, and were made to meet with such persons as you, that have done such things as you have done. And now for your Neighbourhood, I hope you have twenty or forty Neighbours that are within the equity of that Law.

Mr. Love. If they be a Jury, I have power to except against 35. of them.

Att. Gen. My Lord, he pretends *Mr. Lilburns* Triall, but when you come to hear the evidence, you shall hear what he was doing then; he was preparing himself then in his businesse; he thought his time might come; and I am informed, that since he hath been in the Tower, *Lilburn* hath been his counsell,

M. Love. *Mr. Prideaux*, Sir, you are no God, to know my thoughts.

Att. Gen. I did say this from his own expression, he was a diligent observer there, that he might know what was done there, that so he might prepare himself.

M. Love. Sir, you did declare this after the change and abolition of a King and House of Lords, that a Triall by a Jury of twelve of the neighbourhood was according to Law; and you urged Master *Lilburne* with this, that he might plead, and do no harm unto himself. And not onely so, but the House also declared, That since the change of Government, they would never alter that way of triall; and upon the ninth of *February*, 1648. they did declare, That though they thought fit to abolish the Kingly Office, and the House of Lords, yet they resolved they would still retain and preserve the fundamentall Laws of the Nation, for and concerning the preservation of the liberties, lives, and estates of the people. Now Sir, they declaring they would never alter this way of triall, and you declaring this way of triall by Juries, to be according to the fundamentall Laws of the Land, I beseech you give me the reason why it is denied to me.

Att. Gen. My Lord, it is very unusuall for a prisoner to debate with the court. Here he is to be controuled. Let him know he is a prisoner, upon the triall of his life, before that court that hath been impowred by the Parliament, they who did never binde their own hands: I must say, my Lord, they cannot binde their own hands. And it is this triall that they have thought fit to give him. And for his excepting against thirty five, then you will hardly be a court left. My Lord, I think if he look upon the court, he will finde no enemies here, knowing them to be of his neighbourhood, and most of them of *London*; and I think, he known to them, and they to him, the most of them. But my Lord, these disputes are not allowed to others; and the Gentleman will (I hope) have so much modesty at last, that he will think he hath said a little too much to the court; and I think, it is not good to provoke too far. And my Lord, he hath said much, and you have given him faire answers, and those that are cleare and undeniable. But if he speak of the jurisdiction of the court, and that he will not plead, let him speak in plain English, and he shall hear me in plain English.

M. Love. Although I am not satisfied as to the foundation and originall of this court, yet I refuse not a triall, hoping that tendernesse of conscience will appear in you, and clearesse in me, and weaknesse of proof against me. Upon this, I do not refuse a triall, but I will plead, if I may have that which the Law allows me. And according to my weak measure and unskilfulnesse in the Law, upon the charge read against me, I do apprehend there may be some things objected against the legality of the Indictment, and many things to take it off, both for matter of time, and form, and other things, by a lawyer. Therefore I intreat I may have counsell to be with me, both in my chamber, and here in the court, and then I will plead.

Att. Gen. I am not here to make a bargain: but this I will say to him, he hath had so much tendernesse and respect, as few men more. He hath had notice of his triall above a fortnight; and my Lord, he hath not been denied counsell.

M. Love. I could do nothing in order to my triall, because I have sent for counsell, and they would not come neer me, because they were not assigned by this court; and my studies being another way, and being unskilfull in the Law, therefore I could do nothing in preparation to my triall: Therefore I pray do not destroy me in a hurry: The more faire the triall is, the more just you will be, and I the more guilty if it be proved against me.

Att. Gen. I appeal to Master *Love*, whether or no it was not denied to *Lilburne*; and there is none that hears him, but sees he hath prepared himself, and perused severall Acts whereupon he is impeached. But these are discourses (my Lord) which if he will put too nigh upon the court, that we should dispute: we cannot force words from him.

M. Love. *Mr. Prideaux* is pleased to urge *Mr. Lilburne*, but I have more matter of Law arising from the charge then he had, and have not that triall by way of a Jury as he had; and there are many things in the charge said to be done before the Act of the 29 *March*, 1650. which gives you cognizance onely of things done from that time; so that many things there are, in which counsell would advise me; therefore I beseech you deny me not that right and just favour.

L. Pres.

L. Pres. You do not breathe the same aire nor the same breath, for it comes from you both yea and nay: for you say you are ignorant, and yet will not be informed by any thing that can be said, and so your ignorance is wilfull. But in this case I am sure, what Law soever you can plead, yet there be some Acts and matters you have denied.

M. Love. I have urged matter of law arising out of the charge, from the 29 of March, 1650. There was no Act then, that I know of, that did prohibite the sending of Letters or Messages to or from Scotland; and I am indicted for Letters or Messages sent to, and received from Scotland, before that time.

Att. Gen. I would fain give you satisfaction: do not cast away your self. My Lord, we do use in law to lay it so for the fact, we cannot tell what the proof will be, whether the proof will be within this three moneths or ten moneths; and it is laid in relation to other offences.

Mr. Love. I have here the Letters of severall Counsellors, and they returne to me their denial; if I could have got their counsell, I would: And yet if I had had it, I could not tell what they should have advised me in, not having a copy of my charge.

L. Pres. If you had desired a copy of your charge, you might have had it. You must know you are before those that have law and conscience, and that are bound to be of counsell for you, and that is the court, and it is their duty to see that whatsoever the law of England allows you to have, that that you should have; but you must have it in a due and proper time and manner of law appointed. You are not now for the present where *Lilburn* was, nor before such a court; he was before a Commission of Oyer and Terminer, who are to proceed according to those Laws, and upon that the Commission directs, and that is by that which the known and fundamentall laws of England direct unto: but this is not in all particulars the like; the Jury there hath a large latitude, who proceed by way of grand Jury and petty Jury, which are both included in this court: so that in all things the proceedings upon that are not as upon this: but thus far the proceedings are alike; you have your charge, and you are to plead to it, for that is the first thing to be done; there is nothing can answer your charge, but whether you be guilty or not guilty: if you plead not guilty, then the evidence will be called, and if then any matter of law ariseth upon the evidence, it is the usuall course to assigne you counsell, and to be counsell for you, and to tell you it is law to have counsell; but for you to demand counsell, and first to have counsell assigned you, it is against that form and legality that the law of England appoints; for till you put your self upon trial, we cannot allow you counsell to the trial; so that you must plead, and it is our duty to tell you so: and it is the duty of this court, to be as careful when you have put your self upon trial, that all the benefit of the law may be afforded you; therefore you need not fear it, for if any of these things arise you now fear upon the evidence, then will be your time and our time to stand upon this you now do, touching matter of law; but in the mean time, in truth that which we are to tell you, and which we are bound in justice and conscience to let you know, is this, that you are out of your way, and therefore do not destroy your self: for if you refuse to plead, there is nothing then but a plain downright judgement.

M. Love. In ordinary courts of Judicatory the Judges do counsell for the prisoner; but you are here Judges not onely in matter of law, but of matter of fact also, and therefore I cannot advise with you: for should I confesse any thing, then it ariseth out of my own mouth, and you will condemn me upon it; seeing therefore both lie in you, both matter of law and matter of fact, I beseech you afford me counsell, and let me have a copy of my charge, and Solicitors, that they may be here with me in court, and then I shall willingly plead.

Att. Gen. This cannot be done, nor ever was done, to have counsell assigned until upon matter of fact something did appeare; and for the copy of the charge, it was never demanded I think before; and it is in vain for us to speake, if the Gentleman do refuse to plead; I shall then presse you for justice.

M. Love. I do not refuse to plead; but yet I should be guilty of my own blood, should I not plead for that just and necessary means for the preservation of my life: through my ignorance I may run my self into hazard and danger; therefore I beseech you deny me not that just favour.

A lawyer a member of the Court. *Mr. Love,* you are not prodigal, you say, of your blood, nor are we I hope, prodigal of your blood; we are to answer for all, therefore I pray let me beg thus much of you: if you plead *not guilty* to the charge, then there is a proceeding to be by Master Attorney, to prove you guilty of it; and if by any evidence that he shall produce, or in any thing that shall fall out from your self

self, in answer to the evidence, there shall arise matter of law, trust us, I pray you, we do promise you that we will give you the benefit of the law in it; and when there comes matter of law to be decided, which we are persuaded is matter of law, then you shall have counsel assigned you; but there is no counsel to be allowed till the prisoner desire it, and shew matter of law, for which he desires it.

Another lawyer of the Court. The main thing you stand upon, *Mr. Love*, is this, that there is no mention made in any Act, that this court can take cognizance of sending to, or receiving from *Scotland*, but therein you are mistaken; for the business of holding correspondence with *Scotland*, is in expresse words appointed to be under the jurisdiction of this court, therefore I think you are utterly mistaken in that. Then Sir, for counsel, if there comes any thing in the world that is legal, and is a fitting counsel should be heard in, I think I may promise it, we will not make our selves so far guilty of your blood, as to deny you that justice that belongs to any man; for it is your just right to have it, and we cannot deny it, when a point of law ariseth. And you do not urge matter of law; onely you question the jurisdiction of the court, and we must overrule you in that, for we are not to dispute the power of the court; for if the Parliament give us jurisdiction, and by a speciall Act appoints, that the business of holding correspondence with *Scotland* should be within the cognizance of this court, we must obey, and not dispute.

M. Love. I suppose, Sir, a man may demur concerning the jurisdiction of a court to one point, as if he be accused for treason at the common pleas, he may demur to the jurisdiction of that court in that: so Sir, I apprehend there are some things read against me in the charge, of which this court cannot take cognizance; for that they are said to be done before the Act for the constituting of this court came forth: so that I may demur to the jurisdiction of the court in that particular.

L. Pref. For you to anticipate your evidence before we come to it! we do not tie you to the charge, but to the proof, and we must apply our selves to the proof, and not to the charge.

Att. Gen. And for the business of *Scotland*, which troubles him much, it is exprest in this very Act, that the same offences are to be inquired, tried, and judged by the high Court of Justice, in such manner and form, as other offences are to be tried, in expresse termes.

M. Love. But there is no time mentioned: for there are two Acts, wherein if the prisoner be not indicted within a yeer, then the fact shall not be prosecuted. Therefore I must demur to the charge, as not legal in matter of form. There are two Acts declaring what offences shall be treason, wherein it is said in those two Acts, That if the party be not indicted within a yeer, he shall not be indicted at all. Now the Indictment that is against me, looks back to things that are pretended to have been done by me in 1648. and 1649. And so according to those two Acts, I am not to be questioned for them, it being above a yeer before I was indicted.

L. Pref. How is it possible that this comes to be an exception untill you heare the evidence? if you heare the evidence, and do finde that the witness do speak to this not within the time of the limitation, then is your exception proper; but no counsel can divine what time they can give evidence for.

M. Love. Sir, I am now to look to the charge of treason read against me, and not to the evidence; and in the charge I am indicted for those things, for which I apprehend I ought not to be indicted. For according to those two Acts, I ought not to have been indicted for things pretended to have been done by me so long ago: and this I apprehend to be matter of law. And for the witnesses, let them speak to what time they will, yet this I am sure, they cannot prove that I was indicted within a yeer for those things that are charged upon me to be done in 1648. and 1649. for that were to prove an impossibility: so that it appears to me, I am indicted for those things for which I ought not to be indicted.

L. Pref. It may be so; and if so, those things will fall off of themselves; there may be some things true, and some things not true; and the counsel may faile in proof of some of them, and you may clear your self; yet this cannot be before the pleading. When you come to plead, if the matter be not proved against you, and within the time limited, it will fall off of it self without any words at all; and all this time is lost to all this Auditory, and no counsel can give you advice in this.

M. Love. I still say, I do not refuse to plead, but if you would afford me counsel, I should thinke my life in a great deal lesse danger. For I do not know, whether I may not, by the advise of counsel, confesse some part of the indictment; whether I may not demur in law upon some part, or a great part of the indictment, which I have done already; As that I am charged for treason for those things that are not within your cognizance or power, as I apprehend, and things done before your Acts; and for such things, that if I had done them, I must have been indicted for them within a yeer, or else not at all; and these I deem legal exceptions.

Member of the Court. My Lord, he is very ignorant of the law; for the fact must be put in question before matter of law can arise; for if the fact be one way, then the law falls out that way; if the fact be false, then another way. Now if Mr. Love bring in any of these exceptions for matter of fact upon proof, which he sent letters into Scotland, or in such a time, whether that be any offence, that will all arise after the matter of fact proves true or false: But before that, under favour, none can speak to any thing against an Indictment, unless he speak against the jurisdiction of the court. And then for other matters, they are saved unto him. And you will, I suppose, admit of counsel in matter of law; but his desire cannot be granted unto him until he plead, and until the matter of fact be some way determined.

M. Love. I beseech you acquaint me then with the meaning of these words in Judge Cooks Institutes, *The prisoner at the bar may have counsel to overthrow the Indictment.* It must be either to overthrow a part of the Indictment, or to help the plea, either to plead *not guilty* in part, or to demur in part. Let me hear then, I beseech you, what is the meaning of those words, That the prisoner at the bar may have counsel to overthrow the Indictment. I cannot overthrow the Indictment when I plead; for then witness comes in against me.

Att. Gen. He may overthrow the Indictment by the witness; and I believe he is convinced, that the court hath jurisdiction in as full and expresse terms as law and authority can give them. And for the next, I may say, your Lordship and the court did never allow a counsel to pick holes and finde faults. But if he object that to you that is just and probable, and that which is dubious and doubtful, and fit to be debated in law, Assigne him counsel. You have heard all his particular exceptions, and given your judgement upon them all. But I hope, he doth not here expect to have lectures of law read him, and to make him understand them. But as to those particular exceptions that he hath made to you, I think some satisfaction is given, and that every man is satisfied, and that there is no colour of doubt there; for matter of fact, and the times that he insists upon. For the Act directing what offences are treason, and not to be arraigned unless they be prosecuted within a year, I must tell him, the impeachment is laid from 1648 to 1651. Yet my Lord, I shall make it appear, that the Indictment doth look backward to some offences, and forward to others; it is laid first in general. He committed such and such treasons and offences in such and such years. And I shall come with the evidence, and apply them to such times that are within your power, and in which the law makes them offences: And this is to be debated then, and not to be once spoken of now. My Lord, I shall begin from 1648, and run on with him, that he hath continued in a treasonable disposition, and in treasonable plottings, to the time he was laid up, and since; and will justify all; and therefore it behoves him to insist upon it. And I will make it appear, that he was one of the first that ever did appear against this Common-wealth in plotting; and he did continue so until the time of his restraint, and after that time.

M. Love. Sir, you are no witness; if you be a witness, come and swear.

Att. Gen. I will use you with all the duty of my place; and if you give me not occasion, I shall not do otherwise.

M. Love. I shall give you no occasion.

L. Pres. This will make all that heare him, to thinke that this is the very best of his case; as we know it is.

M. Love. Sir, although I do not come here to have the law expounded to me, yet I do come here to have the benefit of the law; and if the law allows me this benefit (I being unskillful) that if I can finde in the charge matter of law arising, then to have counsel to advise me, and to overthrow the Indictment; Why should I be denied this benefit? And I do not yet, according to my understanding, see that you afford me the benefit of the law, you not granting me counsel to advise me to overthrow the Indictment.

One of the Court. Mr. Love, if it were possible, I desire you might have satisfaction, for this that you desire is very just; and when it comes to its proper time, then you shall have it: But do not by disorderly demanding of it out of your time, lose the benefit you might have of it when it comes to your time. That which you stand upon, and call law, is not matter of law; nor can you call it law, till you hear what the fact is. For can any man judge what is matter of law, till he know the matter of fact; as it hath been told you well, that the law ariseth out of the fact; so that if you will anticipate the evidence and the proof of the fact, by urging this matter of law which you did heare read in the charge, you will do your selfe wrong, and you are mistaken in it: For there is no matter of law appears there, for it is barely, *Thus you have done.* And if you say this is Law, you exclude all the Witnesses.

The Debates between the Court and Mr. Love,

Whether you have done it or no, we cannot tell; and if you have done it, whether contrary to law or no, we cannot tell, because we must apply the witness to the Acts of Parliament that authorize us to sit here; and if we find that the doubt grows upon what the witnesses say, and upon what the law saith, then doth matter of law arise, and then it is time for you to say, it appears not by this witness, that it is within the Act. I do the rather speak this, because we do extremely desire you should receive satisfaction, for I would not have any here have anything put upon him, that may not appear just and according to law; and none can ever say that a man had counsel assigned him before he pleaded here.

L. Pres. It is now the Sessions at Newgate, and there may be many prisoners, and if every prisoner should take the liberty to plead matter of law, and say, I am no Lawyer, let me have counsel assigned me, and I will answer, when should we have any man answer? when would men be executed for robbing, and stealing, and killing?

M. Love. That court is different from this, you here are Judges both of law and fact, there the Judges judge of law, and the Jury of matter of fact. But Sir, satisfy me in this, if there be any thing in law before pleading to overthrow the indictment (as I perceive by Judge Cook there is, and to which I have received no satisfactory answer) let me have that legal benefit to overthrow the charge. I have said what I can: but if I had counsel here, they could say a hundred times more.

L. Pres. You have heard no body but your self, for whatsoever hath been told you by the court and your friends about you, hath not been hearkened unto. We have spent thus much time, and people are weak, and if you will plead, do. Reade his charge once again; and I tell you, the next is judgement.

The Clerk. Christopher Love, you stand charged on the behalf of the Keepers of the Liberties of England, by Authority of Parliament, of high Treason, and of other high crimes and offences against the Parliament and People of England; this high Court therefore requires you to give a positive and direct Answer, whether you are guilty or not guilty of the Crimes and Treasons laid to your charge.

M. Love. I am not satisfied, but that matter of law doth arise from this charge; and I do earnestly presse I may have counsel, and then I will plead.

Att. Gen. I do as earnestly presse, that you would as positively say, that you cannot allow him counsel till he hath pleaded.

M. Love. I now see Mr. Attorneys words to be true. When he came to me to the Tower and examined me, the 16 of this month, he said, That seeing I would not acknowledge (as he called them) my treasons, I was judged peremptory and obstinate; and I remember he said these words to me, *Mr. Love, Though you are too hard for me in the Pulpit, yet I will be too hard for you at the Bar;* and truly now I finde it so; and it is an easie matter for a Lawyer, armed with Law and Power, to be too hard for a poor naked Scholar, that hath neither Law nor Power.

L. Pres. Doth this do any good to you? if it were so that you are too hard for him (for you are too hard for every man in the pulpits) yet you sometimes are so out, and in that you are controulable. If Master Attorney be too hard for you here, let him be too hard for you; but it is the Court that are to deale with you here: we will not do it because of his saying, but you must think that the court will be led by their evidence, and not by Mr. Attorney.

M. Love. You gave this favour to Master Lilburne, and I do not deny to plead; but I am not prodigal of my blood, therefore I crave counsel.

L. Pres. I do not know what to say more to give you satisfaction, then what I have said; you say you do not deny to plead, and yet you do not plead; you say Mr. Attorney is too strong for you; but you know it is not he, but the evidence may be too strong for you. And do not you think that you have such Judges, as will let you receive any prejudice. *Mr. Love,* you are a Minister, I pray shew forth the Spirit of a Minister of Jesus Christ; carry your self so, as that you may not either wrong your self or the court. I would have you behave your self without recriminating. You speak of Mr. Attorney, as if he could be too hard for you, as if we were all of his side, be it right or wrong: Know, that we are men of conscience, and have souls to save as well as you.

Mr. Love. The charge is long, and I never heard of it before, nor knew of it before.

One of the Court. We give you our faith and credit, that if any matter of law ariseth, we will not make our selves guilty of your blood, but we will allow you counsel; your self hath read a book in the court, that shews the court cannot allow you counsel till you plead.

L. Pres. Did you ever consult with the Lieut. of the Tower? what, will you cast away your self?

Col.

before his pleading to the Charge.

II

Col. West Lieut. of the Tower. I could, My Lord, advise him no more then what I knew, and that was the time of your sitting.

M. Love. I hope you will not in a hurry spill my blood.

Lieut. of the Tower. Since Saturday was seven night he was not restrained.

L. Pres. Your Profession goes much in profession; but when it is abused, it is the highest transgression; you would evade things with mental reservations, and say and unsay at the Bar, as high as any Jesuice can do.

M. Love. I will not lye for my life; you may say what you please, and do what you please, I speak before God and this Audience.

L. Pres. Mr. Love, know that we are here in as sacred a posture as you are in the highest place of your calling, and if we do not know that God is here present, we are the miserablest creatures in the world; and therefore if your office and ours do not make us know that we are in the presence of God and Jesus Christ, it will be but ill for us; and yet you hurry our, that it should be such a terrible thing in you, more then in us. You have spoken many words as a shadow in the aire, there is nothing materiall in them, but the strength of your will against the judgement of the court.

M. Love. If I do plead to the charge, I do allow the matter and form of the charge to be legal. I desire to have counsel to come to my chamber; I do not say, to come to this place, but to have liberty for them to come to my chamber.

Mr. Steele Recorder of London. I did not think to have spoken, nor have I usually spoken in this court, yet I will speak a word out of tendernesse to your self. You have very often insisted upon it, that you should have counsel assigned before you plead, that is it you plead for: truly the course of law is this, That if the prisoner charged at the bar, before he plead shall demand counsel, he must of necessity put in some special plea before the time he can demand counsel. The court doth not enforce you to plead guilty or not guilty to all the matter of fact, but they say, of necessity you must plead. If you put in a special plea, and tell them that it is a special plea, and desire counsel upon it, they will consider it: but till you can declare what that special plea is, for there is a general plea, and a special plea; the general plea is, *not guilty*, the special plea is in some particulars. Now for you to alledge neither the special plea nor the general plea, it is impossible that counsel can be assigned you. And whereas you say you are concluded if you plead, and cannot object against the indictment afterwards; no Sir, I tell you in the name of a Christian, and one that knows a little of the law, that all the objections you have against the indictment, the formality of it, and those things you speak of, as that of your fact not being committed in such a time that the Act holds out, that the high court hath no relation to try you for *Scotland*; all these will be saved to you, if they arise upon matter of fact from the evidence.

True, if you make an objection against the jurisdiction of the court, that hath no relation either to the special plea or general plea, it cannot be. It is impossible an objection should be received against the essence of the court, there is none can possibly over-rule that for you, but themselves; it is such a thing, that no counsel can be assigned you, as to that, because it strikes at the very being of the court. Now therefore I beseech you in the name of a christian, that you will not do your self that prejudice, for nature teacheth every man to preserve himself by all just wayes and means; and I do believe that in this business you have apprehended it for your preservation, and that you are loth to do any thing that tends to your destruction; but you may satisfy your conscience, in that you have done what you can. And when you have pleaded, and used all the arguments you can, and have heard the judgement of the court in it, you may satisfy your conscience, that in the words of honest men (unless it be the jurisdiction of the court, though you have tacitely spoken there) you shall have that right and priviledge which the law allows you. I confess, I never spake here before, and it is a rule amongst us, that none but the President should speak, and we have done more to you, then to the greatest person that ever spake here, because we think some necessity lies upon us towards you (in regard of your calling, and the worth that hath appeared in you) to direct you what you have to do.

M. Love. Sir, a man may demur touching the jurisdiction of any court, if he can shew any thing in the indictment that the court cannot take cognizance of, which he is charged with; though he do not demur simply as to their jurisdiction in general, yet as to that particular he may demur; as a man may demur in Chancery, when a cause is onely triable at the common law.

L. Pres. You must know, that he that speaks against the jurisdiction of the court, speaks against the jurisdiction of the Parliament of England.

Mr. Steel Recorder of London. *Mr. Love,* to help your understanding, I did not say that *Mr. Love* did expressly speak against the power of the Court, as if they had no power to try him; but this he seemed to say; That what he hath offered against the jurisdiction of the Court, in any thing he is questioned for, if he have not counsell for it before, he cannot have it afterwards. Now if the question you offer be a mixt doubt, for your objection is mixt; for you say, the Court hath no power to try the facts, whereof you are indicted; now is it possible the Court can judge of that, or know there is matter of law ariseth out of it, till the fact appear out of the mouths of the witnesses? it may be the fact will not be proved, then there will be no matter of law arising; if the fact be proved that it was done at such a time, before the act was made, when that appears to them, the Court then will strike it off; you shall not need counsell, then we shall not regard it: if upon the fact any other doubt ariseth in relation to *Scotland* (for it must be from two witnesses, your doubting being mixed with matter of fact) we shall then be able to judge of it.

Mr. Love. Sir, if any crime be laid to my charge, that ought not to be laid, and that this Court can take no cognizance of, I should have counsell in it.

L. Pres. We have spoken more to you then became us, perchance, and that from tenderness to you; and if nothing can give you satisfaction, but over and over with the same things again, we can but speak our consciences and leave it to your self.

Mr. Love. I do declare, I do submit to the tryall, and am willing to do it; but it beboves me to use all just means for the preservation of my life; if you will, give me but a dayes time to consult with counsell.

L. Pres. That is in your learning sufficient to say, you will do it, and yet do not do it; because I say, I will submit, therefore I do submit; this is no obedience at all. I know no such Logick as this; it is submitting that must do it; you will submit, but you will not act; pray *M. Love*, be so charitable as to take us to be Christians.

Mr. Love. What prejudice Sir, can it be to this Court, being I have not spoken with any Lawyer, to give me but a dayes time? I will desire no more.

Att. Gen. I would faine know, why may not the next prisoner say, you have done so in *Mr. Love's* case?

Mr. Love. You have accepted of speciall pleas, you did it in the case of *Sir John Stowel*; and if I through my ignorance in law, cannot urge the strength of law, and a speciall plea, as otherwise I might do, I beseech you let me not be prejudiced by it.

L. Pres. *Sir John Stowel* insisted upon speciall matter he had to plead, and that was, the Articles of *Exeter*; but he did first plead to the charge, Not guilty; yet we gave him that benefit; and he had that which did last a great debate of this Court, and so did *Hambleton* and divers others, we will do no otherwise with you then with them.

Mr. Love. If you now deny me my speciall plea, I cannot help it, which is this, that the writing or sending letters (if it could be proved against me) into *Scotland*, doth not come within your act, and that it is only for *England* and *Ireland* that are mentioned therein.

L. Pres. If there be a speciall plea wherein there is no difficulty, then we give no counsell; but a speciall plea must have something that is dubious in the judgement of the Court; but for this, that in the letter of the law every School boy understands; the Judge will not allow you counsell in a triviall matter; we have gone over and over with you againe, and this is like other discourses with you; but certainly never was the like seen, that a Court was so trifled with.

M. Love. This is my humble motion, allow me but counsell to morrow, that they may appeare here.

L. Pres. You may have counsell to morrow as the case shall be.

M. Love. Shal I have the copy of the Charge?

L. Pres. You shall have what is fit, you shall have nothing denied you when it comes to you to have it, you shall have that respect; I do it not to flatter you; but refuse to plead at your perill.

Mr. Love. Will you give me but this favour, that I may have but an hour or two's time to console with a Lawyer?

L. Pres. I do not know but that this that is done, must be done for all that comes to the bar.

Att. Gen. I had thought there would have appeared in him that calls himself a minister of the Gospel, more meekness & obedience to authority, not our facing authority; & it is not well done of him. *My Lord*

I humbly beg, that having had thus much of your patience, and perswasion by arguments, and all means used to him, and nothing will prevaile; that, my Lord, you will now be pleased to give your judgement according to the rules that the law appoints you, upon him that refuseth to plead.

M. Love. I do not refuse to plead.

L. Pres. Doth a man of your learning say, you do not refuse!

M. Love. A man may demur to his charge, and yet not refuse to plead; and the court may grant me a daies time, if they please; for I come here unarmed and unprepared.

Att. Gen. His demur is matter of fact.

L. Pres. Will you put that upon law, for law, which is not law? and by your putting your selfe upon that, you confesse the whole charge.

Att. Gen. I desire one favour, my Lord, which is of justice to him; which is, that you would be pleased to command your clerk to read that act that says, *If any person before you refuse to plead, he may heare the sentence of the law upon him.* *L. Pres.* Clerk, read the Act.

The Clerk reads that part of the Act about refusing to plead.

Att. Gen. My Lord, we desire his final sentence.

M. Love. My Lord, I desire but the favour of a daies time to consult with Lawyers.

The Lord Presidents consults a while with the Court.

L. Pres. I now do deliver it from all of the court, and all of them are of that minde, and now plead, or you shall have judgement.

M. Love. But if I plead, I desire I may have counsel to hear the witnesses.

L. Pres. We will not make a president; for it will be said, it was Master Lilburns case, and Master Loves case.

Mr. Love. Will you promise me, that I shall have counsel to heare the witness.

L. Pres. We will promise you justice. Reade the sentence.

The Clerk goes to reade the Sentence.

M. Love. Not guilty.

Att. Gen. My Lord, we do say in the behalf of the Common-wealth, he is guilty of the crimes and treasons laid to his charge. And, my Lord, you now perceive, that when you have been long troubled, you see he comes very hardly to it; an innocent man would not have made so much ado; and knowing his innocency, would not have had so much capitulation and trifling with a court of Justice. My Lord, for these crimes, you are pleased to observe they are of several natures, and of long continuance. And now, my Lord, for the state of the evidence, it is commended to the charge of another Gentleman, that is master Solicitor General of the Common-wealth, to open to you the state of the fact, by which he stands here impeached and accused, the nature of it; and how it should have been carried on, the series of time, the persons with whom he complied, how plotted and contrived to undermine this Common-wealth, even to the foundations of it. My Lord, when that is opened, I will then produce the evidence to make it good against him.

Mr. Solicitor Gen. My Lord, *Mr. Love* urgeth much for himself, but he doth not tell you what. For my part, I never saw his face till now; but his own carriage, if that do not do him wrong, none will. He saies, he is singled out from all the rest of his brethren. I suppose he means those that are his fellow conspirators; the reason of that is, because he was the first, he had a hand in the first action and last action; so that from the beginning to the end he was the principal man, both by counsel, friends, purse, and encouragement; and that is the reason he might justly be singled out to be first in the punishment, because he was first in the fact. He saies, God in *Athans* case wrought the discovery. My Lord, I thinke the court will think, that God was the great Discoverer of this great treason; for through the whole series of it, it was prest and carried on with as much caution and secrecy as the wit of man could contrive, and nothing but the goodnesse of the God of lights, the Father of lights, could have brought this to light, who discovers the secrets of all hearts, and hidden things of darknesse. He hath discovered this. My Lord, the nature of the treason, it is not one or ten treasons, but it is a mystery of treasons, woven together during the space of two years, under the notion of Religion. Many of them that were the conspirators, giving out, that they were a party distinct and separate, and so they did behave themselves like a party separate from the rest of the Common-wealth. First, this party did assume to themselves soveraign power, and did exercise it divers ways; they did take upon them to send Agents abroad to treat with foreign Princes and States, enemies to this Common-wealth, and to give commission to that

purpose

purpose, and to give instructions to that purpose, they did demean themselves in this point, as if this party had been a free State. My Lord, the very first of their rise was that in February, 1648. When the Scots had declared for the King, then they sent immediately to their brethren here, these conspirators, to let them know that they intended to make addresses to the new King very speedily, and that there was propositions drawing to that purpose; and did desire a firm compliance with them, promising them faithfully (and how they kept it we shall hear) as their brethren of Scotland, that their interest should be provided for as their own. And the Covenant that was the ground of all. When they had thus promised, they believed their brethren, and thereupon went about the work, and established a council at *Dowgate*, and there they met, and plotted and contrived how in the first place to make an agreement between the King and the Scots, to the intent that when they were agreed, they might come with united forces to invade this Common-wealth. They were plotting and contriving this about Midsummer, 1649. They were taken notice of abroad to be considerable men; and the King of Scots, as they called him, thought fit to send an Agent to them, to treat with them, which was one *Mason*, my Lord *Piercies* man; his errand here, was to reconcile both parties, the Royal and Presbyterian party, and to make them both subservient to do his work. My Lord, he treated with the Countesse of *Carlisle*, *William Drake*, and divers others, citizens of *London*, and this was with the privy of the Ministers. My Lord, he had commission from the King to assure these conspirators, that if they could procure the Scots to send more moderate propositions than they had formerly sent (for the treaty was broken off before; the propositions were then immoderate) that they should be satisfied. Thereupon they were so confident of themselves, and so bold; (and in this *Master Love* had a principal hand) that without any more ado, he frames a Letter to Scotland, to advise them, and so persuade them by all means to send more moderate propositions. The Scots return them this answer, That they saw no cause to send more moderate propositions; but they desiring a good successe of the Treaty, they should send before hand to the King, to prepare and move him to comply with the propositions when they came. Thereupon they were as ready, whereas they sent with the one hand to the Scots, so with the other hand to the King. They framed a Letter to the King, and I will expresse it in their own language; this was the substance of their Letter: First they let the Prince know, that there was a considerable party in England sensible of their sufferings there (they made themselves so considerable;) and by and by, you shall see what became of that. First, the King did understand them to be so considerable. Secondly, they were bound in conscience and loyalty, to the utmost to help him to his just rights, if he were once engaged with them by taking the Covenant, &c. and prosecuting the ends of it. Thirdly, that there was no way to do this, but by closing with his subjects of Scotland. Fourthly, that being done, all the Presbyterians were bound to assist him. And this, which they did, must be sent away before commissioners come, to prepare the King to give them good entertainment. With this Letter there was a Letter sent to the late Queen, to desire her by all means to work the King to a compliance with the Scots. And there was a Letter sent to my Lord *Piercy* and *Fermin* to that purpose, taking notice that the Queen, my Lord *Piercy*, and *Fermin*, were their very good friends, and ready for this conjunction; whereof they took special notice, and did approve of it as a thing very acceptable, and which should be remembered in due time. My Lord, this Letter was sent, and afterwards *Mason* he brings the Answer from the King, and Queen, and *Piercy*, all agreeing to work this, that the Scots if they came with propositions, should be complied withal. But *Piercy* and *Fermin* writ further, and did advise them, to the intent the King might not fall back again, that they would send a meet person to be present about the King when the commissioners came, that so he might see faire play: And thereupon *Titus* was sent away, to be an agent there for them at this Treaty; and this Treaty was at *Fersey*; but this Treaty took not effect as was desired. Whereupon they resolved upon another treaty at *Bredab*; but at the treaty at *Bredab* the King advised in his Letter (which I shall read) in the later end of the Letter, that they would send commissioners then to treat with him. My Lord, the Letter was written by the King back again to the Ministers. First, the King in the Letter took notice of the Ministers non-compliance with the present power, and of their loyalty and good affection to him; and that if God restored him, he would requite them. Secondly, he promised all satisfaction to the Scots. Thirdly, made large promises of high favours particularly to the Ministers. Fourthly, wisht them to send commissioners, sufficiently instructed, to treat at *Bredab*. Now my Lord, in the Diary that came along with this (for there was a Diary of all *Titus* his Negotiations) in that Diary it did appear, that the King was very much satisfied with the correspondents application to him, and that that should be a main argument to him to satisfy

the Scots. So my Lord, if they had not thus moderated, and perswaded the King that they were a very considerable party, he would never, in all probability, have closed with the Scots, but have thought them very inconsiderable. But when he was informed, that if he closed with the Scots, he should have a considerable party in England, that made him think the Scots were worth the closing with. My Lord, *Titus* in his Negotiation at *Ferfey* did assure the King, that the Ministers were averse to the present Government, both in pulpit and in print, and that they were well-affected to serve him and the Nation, and that the Nation was ready to espouse his quarrel if he did joyn with the Scots. This he did assure him in the behalf of the Ministers. And to shew how they did own this, they did like this assurance so well, that they sent him another Letter; and they did likewise send him a Letter of thanks for his good service he had done, in possessing the King how considerable they were. My Lord, after this business of *Ferfey*, when *Titus* had done his good service there, he was coming home to make his relation; but hearing by the way, that the Council of State had intercepted some Letters, he durst not come farther then *Calice*; and from thence he sends a Letter, to let them know all this; and withal, that he had something to communicate to these conspirators, that was not fit to be communicated by Letter, and therefore desired that some meet person might be sent to *Calice*. Thereupon, this Letter being read in Mr. *Love's* study (so secretly was it carried) there it was agreed, that Major *Alford* should be the man that should go to *Titus*, and should receive all this account from him. Whereupon *Alford* he went away to *Titus* presently, and there he did speak to him, and *Titus* did acquaint him with all these proceedings; and withal they did advise, that a Commission should be sent in the later part of the Letter. So that now they had no more to do, but since their hopes failed them at *Ferfey*, to have an eye to the Treaty at *Bredab*, where they desired to send Commissioners. My Lord, this letter to be presented at *Bredab*, was managed at Mr. *Love's* house. Col. *Massey*, Col. *Graves*, *Titus*, &c. These were the parties. There were Letters sent to them to act accordingly; and *Titus* sent letters to the King and Queen, and *Piercy*. And again my Lord, for the Commission; it was as transcendent a boldness, as ever was done by private men; and the Commission was corrected by Mr. *Love*; for it was rough drawn by *William Drake*, which was the English Agent here. But Mr. *Love* in his study, and Doctor *Drake*, did help to correct it. The substance of the Commission was this: *We the Presbyterian party in England, do authorize you, Francis Lord Willoughby of Parham, Edward Massey, James Bunce, Richard Graves, and Syllas Titus, to treat on our behalf, and the rest of our Brethren the Presbyterians of England, with the King, and to assist our brethren the Scots Commissioners, in their treaty with the King, and to do according to the Instructions annexed.* My Lord, here be the heads of the Instructions: That the Commissioners should use all arguments they could, to move the King to give the Scots satisfaction, and to take the Covenant; and particularly to inform him of the condition of affairs, and how things stood in England at that time; all which then cried out for an agreement with the Scots; giving them full power of all things, and what should be concluded by them the commissioners, should be confirmed by the confederates. I think, my Lord, here was a very large commission; whatsoever they thought fit, they were willing to comply with and make good. My Lord, at Mr. *Love's* house, at the same time it was moved (according to a letter from my Lord *Piercy* to *William Drake*) that a good sum of money might be sent to the King, as a great means to dispose the King to an agreement with the Scots; but they did not think fit to be cozened of their money, but if this conjunction did follow, then to raise money considerably. And they went on so far, as to debate how to raise this great sum of money for this pious work, as you shall hear by and by, under what notion when propounded. Those men agreed, that the best way was, that the Ministers should have several correspondents; and that they should propound the lending of 10, 20, 30, 40, or 50 pounds, for a charitable use; but you must not ask what this charitable use is for. And this charitable use, what would it have been? If God had not blest the battle at *Dunbar*, we should have seen it. My Lord, a little before the battle at *Dunbar*, when they had a letter from *Massey*, or *Bailey*, or somebody, they then began to understand their brethren better then before; for he did informe them, that notwithstanding what was pretended, yet for all that, there was no English employed, nor was the King crowned. This did disturb the minds of the conspirators very much; inasmuch that they did expostulate with a large letter written by Mr. *Love* and Dr. *Drake*, written in a table-book in sack, and sent there; they did expostulate with them, because the Presbyterian party, which was the over-ruling party, were growne so confident of carrying all before them, that they did neither crown the King, nor minde the English. They did blame them for this, seeing this going upon a single interest, and upon one party alone,

which

Which they did call godly, would not do well. And my Lord, it proved so indeed, they carried it on upon this, till the battel at *Dunbar* came, and then they began to be of another minde. After that battel, there was a letter from the commissioners of Estates, pressing for Arms and Ammunition; and letters from *Massej* and *Tims* for money to be sent. My Lord, these good natured men, notwithstanding they had been so handsomly dealt withal when their brethren were in power, yet for all that, so fierce and eager were they to carry on this great designe, which God knows what it would have come to, they notwithstanding, upon *Mr. Loves* proposition (for he was the man who did propound it) agreed to send 500 pounds presently to *Massej*. My Lord, this money was raised, and subscriptions taken by *Mr. Love* himself at his own table: And this is proved by one who brought his ten pounds, he brought it to *Mr. Love*, and would trust no body else with it; and this was sent away presently by captain *Massej*. My Lord, there was a large letter sent also with the money, wherein was good counsel; for besides the money, he did write to advise his brethren, that it would be notable service to indeavour after union. The letter was sent, and that large letter inviting to union had been delivered to the Assembly, and that would help to quash the dissenting party in *Scotland*, who had made the King a prisoner. But now the State and Church were all agreed, and this was the fruit of *Mr. Loves* letter. And if they had not been so united, they could have done no harm; this letter came so seasonably that they conceived it very considerable. They pressing to union very much, by this means did quash the dissenting brethren, and by that means they came to be as now they are. My Lord, about *Christmas* last, there came a letter from *Massej*, which gave an account of crowning their King, and of great preparations to take the field; and that the correspondents here should beware of unreasonable rising, and that they were most afraid that these persons would rise too soon, and so spoile all. My Lord, in answer to this letter, they write back again to *Massej*, to advise him on the other side, to take heed that he came not into *England* but well provided, and not to depend much upon the assistance here in *England*; they were afraid he was too weak, as he was afraid they were too forward. My Lord, after *Cook* was apprehended, then the correspondents met no more at publick meetings, and yet they received letters from *Drake*, *Massej*, *Bunce*, and the rest (whereof *Mr. Love* was still made acquainted as a principal man) that told them of the hopeful condition of the *Scotts* Army, that they intended to engage in *England*; advising the party here, not to be too forward. This was the second advice; and see the reason of it; for if *Mr. Love* fate at the helm, as he did, all the meetings being at his house, after *Drake* went away he still stating the question, drew these letters and corrected them. And if he were such a main stickler, truly there was very great reason for his advice. My Lord, about the middle of *March* last, *Col. Bamfields* man brings an answer to the message in the table-book written in sack, containing foure or five sheets of paper: Upon this packet there was nothing written but the letter *L.* to deliver to one of the conspirators; and seeing nothing but the letter *L.* written, he carried it to *Mr. Love*, and *Mr. Love* did own it as sent to him; and that was the large Narrative of the state of affairs in *Scotland*, after the fight at *Dunbar*, how things stood there. My Lord, with this Narrative was sent also a letter from *Mr. Bailey*, by order from the general Assembly: they did order *Mr. Bailey* (which was the *Scotch* correspondent there) to write a large letter; and there was another letter from my Lords of *Argyle*, *Lowden*, and *Lothian*, &c. it is worth your observing what this letter was that came from these men: First, thanks for the good affections of *Mr. Love* and the rest of the conspirators. Secondly, encouragement to persevere, and to credit *Bamfields* negotiation for money. Thirdly, promised to repay all, whatever they should lend: But when, and by whom this payment should be made, the letter will tell you; and that is, when God shall blesse their endeavours in procuring a free Parliament in *England*. So the Parliament in *England* must pay all the *Scotts* debts, that these conspirators shall lend. Truly I thinke it will be a very free Parliament indeed, when it comes so free out of the peoples purses. My Lord, *Mr. Love* and others gave *Bamfields* man that brought this Narrative out of their own purses ten pounds, and sent a bill of exchange of 30. pounds to *Bamfield*; by one witnesse it will be expressly proved, that ten pounds of this money came out of *Mr. Loves* purse. My Lord, *William Drakes* last letter did informe, that *Massej* would break into *England* as soon as there was grasse for his horses; and therefore he sent to have a good bank of money provided in readinesse, and that they should think of timing a party, and that they should neither rise too soon nor too late, but just when *Massej* came in; this *Mr. Love* told *Major Adams*. My Lord, now we come so near to the time, as that one of these conspirators is apprehended by the Council of State. When he had been in restraint three daies, he sent to *Mr. Love*, and *Mr. Love* came to him, but he had been at a kinde of a Fast, for they did keep Fasts once a fortnight at least, and prayers

Prayers, for the good success of this design, That God would bless this wonderful Treason; which was for the making, by the *Scots* Army, an utter subversion of this Commonwealth; and the free, and noble, and magnanimous people of *England*, should be made vassals and contributaries to the *Scots* Nation: This was the design, and for this design, the Ministers fasted and prayed: But it is plain, God did abhor such things. And, my Lord, Master Love took upon him, to speak to the person under restraint, Take heed, saith he, what you do, least you wrong your self or others; and said, It is true, Titus his man hath broken up Papers, but we are all well enough; but give notice to the rest of the Confederates, That they may not be surprised; but be you not troubled, because we have prayed for you this day: And they implored the God of Truth, that nothing of all this should come to light, but that we should be in the dark still in generals. My Lord, This is the true state of the evidence, as near as I can present it, with a frail memory: And, my Lord, I have opened nothing but generals, your Lordship and the Court will judge of it; and Master Love will have the less to do to answer: But it appears by this, That there hath been such a practice, such a series of Treason, Treason upon Treason, that one Act of Parliament is not enough to contain it; but all those Acts of Parliament read, every one of them make him a Traytor. And, my Lord, I am sorry I have taken up so much of your time, especially, when you have spent so much time before: If your Lordship therefore will be pleased to have the patience to hear the Witnesses, we shall prove more then I have yet opened.

At Gen. My Lord, This was an early Treason, that began betimes to crush the Commonwealth in its infancy: And, my Lord, Master Love being singled out for justice, you will anon observe, there was singular cause for it; and if he had had his desert, it had been long before now: But States can play sometimes with Treasons, and not take a time tell they see fit. My Lord, This Treason, as I have opened it to you, began in the year 1648. The King of *Scots* so called; but take notice, This the same Nation and Persons that proclaimed him King of *Scotland*, proclaimed him King of *England* also at the same time, in the same Nation; and those persons that proclaimed this person King of *Scotland*, the same proclaimed him King of *England*. My Lord, You have heard some of the Conspirators named, *Titus* and *Drake*, active men both of them; These men have been so ingenious, That they have fled for their Treasons; notwithstanding this Gentleman, a Minister of the Gospel, he doth not do so; they have confessed their offences, and are fled for them; they dare not appear, they have so much guilt within them, that prompts them to keep away; but this Gentleman hath not so much. My Lord, *Drake* was so active, and it was carried on with so much secrecy, and so much (as they thought) of Caution, That Master *Drake* writing, as that Gentleman next Mr. Love doth, in short hand, he burnt his Papers, and burnt all where anything was to be seen, so that no originals are to be seen. My Lord, in this case it hath been opened to you, what transactions Mr. Love had with *Scotland*; and you have been pleased to observe, it was a tender point, that Mr. Love did enter discourse with the *Scotch* Nation; Mr. Love was very much troubled at it, and he may see just cause to be troubled at it: And will you give me leave, there hath been Blood and Treasure spent, as was told you by Mr. Solicitor. I am afraid, I might too justly say, by that Gentleman, and those he did seduce, That they have been too much the cause of this Blood, even that Gentleman that stands at the Bar, that should be a man of peace, and not of blood. My Lord, I may justly say, That that Gentleman hath been too much the cause of these late Engagements between these two Nations, and making himself a party; and it is a sad thing, when parties appear against a State. My Lord, I am too much afraid, what ever God pleases to work upon him, That it should touch his Conscience, that he should be instrumental in such a work. But I verily believe, had there not bin actions from hence, there had not bin so much forwardness in the Kings party to the *Scots*. My Lord, I will minde that Gentleman of what is said of the fifth of *November*, I am sorry for it, that it should be said of our Ministers, whose Faith is Faction, Whose Religion is Rebellion; it is said so of the Romish Ministers, I hope it will not be said so of the English, That their Faith is Faction, and that they pray for strife, and fast for strife. My Lord, For these men, *Drake* and *Titus*, they are gone, as I said, and they did confess themselves so much guilty, as that they have fled for it; and Mr. Love doth know (I am sorry to see him in that gesture) that he was conversant with them all, and doth know (I believe) that we can prove it; and when he hears the men named, he will say so too. Truly, my Lord, I have nothing to say against the person of the man, but against his vices and faults; and nothing to his Function, and nothing to those whom he pretends so boldly to represent, that is, the Presbyterian party. We do all know, there are many honest, precious and godly men, that have received no discouragement from the State; nor this Gentleman, that should give him any countenance or encouragement.

ragement to oppose the State. But it is somewhat a bold thing, for a particular man to be the head of a party, and they to engage as representing a considerable party, to engage to send Commissioners to agree upon Instructions; this is very bold. But my Lord, God be thanked, many of those that were seduced at first, were wile, and did come in before the last; and did not strut it out, my Lord, with States and Justice, as that man hath done before now, and at present, even out-facing Justice, and boldly, I say, wiping his lips; he hath done no offence. My Lord, they were so bold with Scotland, that there was a known Agent there maintained and kept, between Scotland and them; and I will tell him the Gentlemans name, his name was Mr. Sterke; and, my Lord, when he went away, the Act requiring those of the Scottish Nation to be gone, that Gentleman did supply him with money himself; and others gave him eight or ten pounds in his purse to carry him away. My Lord, I believe he knows this, and I am sorry, That that Gentleman that hath gone along with us in much of this War, that he should at last, so much betray his own discretion, as rather to trust a reconciled Enemy, then to be true to his own Friends. I say, He trusts a reconciled Enemy, and a weak Enemy, and that he will think, and will know, that they might betray him; as justly may be done, when men so cast themselves upon the Party of the King, and Queen, and Peirce, and Fermine; it is no great policy nor discretion to have so many of Council: they say, three keeps council; but this Gentleman hath now 20, 30, 40, in Scotland, France, and Holland, and Agitations between them, and frequent Intercourses. My Lord, I shall now call the witnesses out to you, which when Mr. Love doth see, himself will say, are honest men, and to be believed.

Mr. Love. My Lord, I beseech you let me speak a word.

At. Gen. My Lord, he hath heard his Charge in particular, and those things, which if he be ingenuous to himself, and his own Conscience, he cannot but know we shall prove them; and before we prove them, I desire to hear, whether or no he will confess them.

Mr. Love. I hope this Court will not hearken to the insinuations of instruments of State, who are well rewarded for their eager prosecution of men in such a condition as I am in; it is an easie matter, through flourishes of Law, and strains of wit, to stir up the mindes of my Judges against me.

L. Pres. You have heard the Matter opened to you, which you cannot in any Christian, or godly Conscience, or Understanding, but acknowledge, That such Secrets as these you were privy to, and came to your hand; you cannot, before God and man, do better then to confess these, which you know by the urging of them upon you, are come to our knowledge.

Mr. Love. Will you give me leave to express my self, as to these things which I am now charged with, I do declare and protest, in the presence of God and this great Assembly, That I never wrote any Letter, either to the King of Scots, or to the Queen his Mother, or to the Church or State of Scotland, in the general, or to any particular person of the Scottish Nation, since the Wars began between England and Scotland, to this day. I do declare also in the presence of the same God, I never received any Letters written to me, either from the King of Scotland, or Queen his Mother, or from the Church or State of Scotland, in general, or from any particular person of the Scottish Nation, since the Wars began between the two Nations, to this day. I declare and protest likewise, in the presence of the same God, I never collected, or gave, or lent, one penny of money, either to send into Scotland, or into any foreign part, to the King, or Queen his Mother, or to the Church or State of Scotland, in general, or to any particular person of the Scottish Nation, since the Wars began, to this very day. And as to these particulars, I have said it often, I am as innocent, and as harmless, as the least child; and if you will take the aggravating of these circumstances against me, and will proceed upon aggravations of the crimes against me, I hope God will help me with more Peace of Conscience to undergo the censure, then you shall have to inflict it. And as for that Gentleman, that made that great relation to you of the Treaty of Jersey, for my part, I am as great a stranger to all those Transactions, as any here. I never saw the face of him, nor did I ever lend to him or receive any thing from him.

At. Gen. My Lord, We shall call the witnesses.

Captain Potter called into the Court.

Mr. Love. I except and protest against this Witness, for he hath been already examined in private, and hath made his confession there, and that is equivalent to a conviction; and I hope, the Court in Justice, will not admit of this man for a witness.

L. Pres. You shall have Justice, as well as ever any Jesuite had.

At. Gen. You see now what Mr. Love drives at, and you will find his Jesuitical evasions: And, my Lord,

Lord, let him be asked, Whether ever this man was before this Court, or any Committee of this Court; and I think in Justice, you ought to examine Witnesses before hand: But it is clear and evident, That this man hath been a party with him. I do humbly conceive, it is so clear and evident, that rather I should except against the witness, as an incompetent witness, then *Mr. Love*, because he hath been a party with him; but I desire he may be a competent witness, and one in whom there is more ingenuity, then there is in *Mr. Love*.

Mr. Love. Sir, before he swears, I beseech you ask him this question, Whether he hath not been threatned with death, if he would not witness against me.

L. Pres. You cannot over-rule us with your beseechings, and beseechings, it will not do it; your over-importunity shall not prevail with us.

Mr. Love. Let God prevail with you: though he may be *legalis testis* before Conviction, yet he cannot be so after Conviction.

The Clerk. *The evidence you shall give, between the Keepers of the Liberties of England, and the prisoner at the Bar, shall be the truth, the whole truth, and nothing but the truth; So help you God.*

He is sworn.

L. Pres. Now look upon the God of truth, and speak the truth.

C. Pos. I shall speak the truth.

At. Gen. That Gentleman was pleased to trust others, as I said, even reconciled Enemies, and fell from his Friends. I do grant, that this Gentleman hath confest; and if every honest man confests his fault, that is no offence; for an honest man questioned for a fact, to confest the truth thereof. I have not heard that that is no good law; and I do say, that before ever this man came to be examined, we did know it all, and perchance from those that this Gentleman thought fitter to trust, then us; but we did so know it before, that every circumstance was opened by us; and we did convince this Gentleman, and others, though not *Mr. Love*: But *Mr. Love* saith, He must not accuse himself, he must not answer; but this Gentleman did more ingeniously. I do affirm, That he was questioned to every particular, before he answered: And we do know, that the State hath long hands and ears. Now, my Lord, if you please, ask *M. Potter* what he knows of this business of sending to, and receiving from Scotland.

L. Pres. You are upon your Oath, and in the presence of God, then whom there is no higher upon the earth, that is in the fear of Justice, and without relation (as *Mr. Love* saith) to the parties; therefore tell the truth of your knowledge, in the transaction of this treacherous treason, that hath now been above two years in the passages, between the Presbyterian party.

At. Gen. No, my Lord, we will not own that upon them; there are some that do stile themselves so, The Presbyterian Party, that are conscientious persons, and pious, and godly men; and I should do them wrong, should I lay it upon them; but that which I do, is against those that do undertake to stile themselves, The Heads of them.

L. Pres. Begin then with that which concerns *Mr. Drake's* Agency.

Cap. Pot. I have taken an oath to speak the whole truth in this business; but that is, the truth I know. I desire I may not be prest to things that I have onely heard.

At. Gen. You must, and from whom you heard them.

Cap. Pot. I was examined several times, and had a wide latitude there; and then I was to speak to every truth, as I thought and heard; but now I have taken an oath to speak the truth between the State and this Gentleman: And I beseech you, that I may be held close to those things, and I will give you the fullest and fairest account I can. What I said before, was in order to the discovery of the thing; much of which, I had by hear-say from others, and in that I may mistake, in persons, places, and times: What I have done my self, and what I know this Gentleman hath done, that may be put to me fully.

Mr. Love. The witness must so speak, *That we have seen and heard, that do we testify.*

At. Gen. Your Doctrine will not pass here.

Mr. Love. It is Scripture, Sir, and it behoves me to speak, for I am upon my life.

At. Gen. *Mr. Potter*, speak what you know, and from whom, and I desire there may be no glasses put there, by those, who I am sure, cannot do it. I ask you first of the proceedings, and what you know of it, and from whom.

C. Pres. My Lord, the Committee, that examined me, knows I was not privy to the first transaction: I did say indeed something of it by hear-say, and I did likewise say, That *Mr. Drake* told it me; but I may

Captain Potter the first Witnesse.

may erre in that particular, possibly *M. Drake* did not tell me so; for as I apprehend, I said, I did think it did put a necessity upon the King to agree with the *Scots*; and then having seen some papers, and conferr'd with that relation others have made, I collected the truth of them, as far as I did know; but now I am upon my oath, let me therefore come to the matter; I spake then many things as I heard, which I cannot affirm upon my oath.

L. Pres. We must judge of what you have heard.

C. Pot. My Lord, I cannot be certain of that.

Att. Gen. That is receded from. But what do you know of *Masons* coming over here?

C. Pot. I know nothing of *Mason*, I saw him but once, and at that time there past nothing between us of publick concernment, as I remember.

Att. Gen. What was the answer that was returned to that which *Mason* did bring?

C. Pot. That I can speak nothing to of my own knowledge; I heard he was come hither, and was here to see the tempers of men, and to see how things were like to go.

Att. Gen. My Lord, ask him from whom he came?

C. Pot. It was said he came from my Lord *Piercy*; but these things are so remote from me, that I can say nothing to them of my own knowledge.

Att. Gen. My Lord, let him speak what he knows about reconciling the Presbyterian parties.

C. Pot. I think others can speak more close to that; I can say nothing but by hear-say; I heard that *Mason* did endeavour here to finde how the affections of the people stood, and whether there was a necessity that the King should comply with the *Scots*, or with the cavaliering party; and that he found a necessity of complying with the *Scots*.

L. Pres. What assistance should he have from hence?

C. Pot. I know no more of *Mason* then this.

Att. Gen. My Lord, ask him if there were not some letters returned by *Mason*, in answer to what he brought?

C. Pot. Not that I know of.

L. Pres. Did you hear of it?

C. Pot. I think I did hear of it, but I cannot tell by whom: I think by *William Drake*.

Att. Gen. My Lord, ask him whether he knows of any petition sent to the King of *Scots*?

C. Pot. I do not know of any, but have heard so.

L. Pres. By whom did you hear so?

C. Pot. By *William Drake*.

L. Pres. Who did *Drake* say did carry the petition?

C. Pot. I cannot tell.

Att. Gen. Do you know of any answer returned from *Piercy* and *Germin*?

C. Pot. I know nothing at all of these things.

L. Pres. Were not you invited to the meeting?

C. Pot. Yes, I was.

Att. Gen. What did he tell you?

C. Pot. Nothing at all: we had nothing but common discourse there.

Att. Gen. Who was there?

C. Pot. There was *William Drake*, Major *Alford*, and I think *Mason* and *Titus* were there.

L. Pres. Do you remember any more?

C. Pot. I do not remember, nor can I certainly say they were there.

L. Pres. Were not you prest or moved to go to *Jersey*?

C. Pot. Not that I know of.

L. Pres. Did not *Titus* offer to go?

C. Pot. I cannot well tell; but at that time, or some other, he either was spoken to to go, or offered to go.

L. Pres. How long ago?

C. Pot. My Lord, I cannot speak this of my own knowledge; but I have heard say, I think, a month after the time.

L. Pres. Had he any money to bear his charges?

C. Pot. I know of none.

Att. Gen. Well, what meetings afterwards was there in *M. Loves* study?

C. Pot. I have been at *M. Loves* severall times.

Att. Gen. My Lord, ask him whether he was not present in *M. Loves* study, when a letter was there read from *Titus*, and who was present there, and what were the debates upon it, and what was the content of the letter, and whether it was not for some to come to *Calice* to him.

C. Pot.

C. Pot. The letter I well remember; I cannot say it was in *M. Loves* Study, nor can I say it was in his house, I do not know *M. Love* was present; the letter I have seen it, or heard of it, it did desire some to come to *Calice* about the treaty; and I remember well, that *Major Alford* told me he did go to him.

L. Pref. What was the contents of the letter?

C. Pot. I cannot well remember that I have seen it; but I have either seen it or heard of it, I cannot tell which.

L. Pref. You must be true to the State, and speak the truth.

C. Pot. My Lord, I would be true to the State and to the Gentleman at the bar too. And my Lord, I can say no more to it, I either saw it or heard of it, I cannot tell which. I am upon my oath, my Lord; the letter did desire some body to come to *Calice* to him.

Att. Gen. Was not this meeting in *M. Loves* Study?

C. Pot. I cannot say it was in his house, I rather think it was not.

L. Pref. Was he present?

C. Pot. I cannot say he was present, I think he was not present, I think *ed Alford* was sent to the tavern. The papers of *Captain Potters* examinations were here produced by the *Attorney general*, and by the *Clerk* read to him.

Att. Gen. My Lord, these were his Examinations.

C. Pot. I intreat this may be remembered (which I premised at first) I had a latitude then that I have not now, I am now upon my oath, and desire to be true to my own conscience, and to the State, and to this Gentleman; I have made (it is true) such a confession as this is, and I believe the greater part of it to be true, according to the latitude I spoke it in; but now I am upon my oath, and now I am to speak knowingly; the substance of the thing is true, I believe, that he was sent, and sent upon such things, so much I do verily believe to be true, upon my oath, but of the places I cannot speak.

Att. Gen. *Alford* did go to *Calice* and return, and how many daies was it between his going and returning? and where did he give an account of what he did receive from *Titus* at *Calice*?

C. Pot. It is a hard matter for me to speak to the time, I think about a week; and for the relation he made when he came back, as I take it, I met him at the Kings Head in *Wiltbrooke* upon his landing; whether he made the relation to me there, or afterwards at *M. Loves*, whether I heard of the meeting, or whether I was at the meeting, I cannot say. I am sure he himself made me the relation; but whether there, or any other where, I cannot make out.

Att. Gen. Upon your oath, did not *Major Alford* make returne of the answer in *Master Loves* Study?

C. Pot. I cannot say it, but I think it was there.

Att. Gen. Was *Master Love* present?

C. Pot. I think he was present, and I think it was in his house; I am sure *Major Alford* made me a particular relation between him and I.

Att. Gen. Was *Sterks* the *Scotch Agent* there or no?

C. Pot. I cannot say he was.

L. Pref. Was it read in *Master Loves* Study?

C. Pot. I cannot say I was there.

His Examination was again read to him.

Att. Gen. What was the substance of the Kings letter?

C. Pot. It is so much out of my memory, that I scarce remember there was a letter, It is so much out of my minde.

More of his Examination was read to him.

L. Pref. What do you remember of this now, is this true?

C. Pot. I remember I have heard as much, and I believe it is true.

L. Pref. Have you not heard the letter read?

C. Pot. I do not know there was a letter sent; nor do I know there was a letter read. I desire to speak the truth; I had a latitude then, that I have not now; I had then such an information shewed me, and I spoke to it so far as I thought it was true; these papers you shew me as my examination, were not of my framing.

The Clerk. Look upon them, is not this your hand?

C. Pot. I know it is my hand.

Att. Gen.

Captain Potter the first Witnesse.

Att.Gen. My Lord, I did go to the Tower to him, and was with him, and did examine him. My Lord, here be those that will prove it, that himself did confesse, and said it was true; and he took time himself to inform himself, and had (as he said) other mens examinations, and informations by; and he did adde and amend, and gave it under his hand. This is the truth, after several examinations. And he had papers by him, and did correct them himself, and brought them under his own hand written by himself, these very things. And my Lord, ask him whether he did not write these things first with his own hand, and bring them to the Committee of Examinations.

L.Pref. Whether did you not bring in your own examinations, and what you could inform, written by your own hands?

C.Pot. My Lord, that is my hand, and what is there I must own as mine. But I hope you will let me distinguish between what I delivered then, as I heard it and thought, and what I deliver positively. I do say it is true now, as I have heard.

L.Pref. Why did you not say of heere-say then, as well as now?

Att.Gen. Upon the oath you have taken, whether do you not know this of your own knowledge?

C.Pot. Upon the oath I have taken (and I desire to speak it in Gods presence) I do not remember that I saw the letter from the King, or heard the letter read, or the copy, nor can I say *Alford* told me so much, though I think he did, yet I do not know he did.

M.Love. I desire you would take notice, whether this be faire, that Mr. Attorney should help the witness, by putting things into his mouth?

Att.Gen. My Lord, I can help the witness by asking him questions.

C.Pot. My Lord, no man shall so far tamper with me, as to make me say an untruth.

Att.Gen. My Lord, pray ask him, whether he did not write these papers, most of them, with his own hands.

C.Pot. True, but to open to the committee the ground of this business; but I did not expect to swear to every one of these particulars;

Att.Gen. My Lord, ask him, whether after this return was made there was not a meeting, and instructions made about the commission to be sent to *Bredab*?

C.Pot. My Lord, to that, I have heard so much; but I cannot speak it positively. I saw no commission nor instructions, I heard there was both. I do not know by whom I have heard it, I think by *William Drake*.

L.Pref. Were you not at Mr. *Loves* house when they were drawn up, and Mr. *Love* corrected them?

C.Pot. I never saw the instructions.

M.Love. Nor I neither.

L.Pref. Did you not heere so?

C.Pot. I did.

L.Pref. To whom to be directed?

C.Pot. To Captain *Titus*.

L.Pref. And to who else.

C.Pot. The commissions and instructions were to be directed to my Lord *Willoughby* of *Parham*, *Col. Graves*, Major *Gen. Massey*, Capt. *Titus*, and Alderman *Bunce*.

Att.Gen. My Lord, ask him whether he hath not heard Mr. *Love* tell him so.

C.Pot. Never in my life.

L.Pref. Were you not then present at his house?

C.Pot. I know not that I was, nor can I remember.

His Examination was again read.

Att.Gen. Whether were you not at Mr. *Loves* house? and was there not a letter agreed upon to *Massey*, and *Baile*, and *Titus*?

C.Pot. I have been several times at Mr. *Loves* house.

L.Pref. Whether were you not at Mr. *Loves* house with these correspondents?

C.Pot. I have been several times at his house with them; and I have been oftner there upon other occasions.

L.Pref. Name them.

C.Pot. I mean with Mr. *Love*, and Mr. *Jackson*, and Mr. *Robinson*, and Major *Alford*, and Mr. *Drake*, and Mr. *Gibbons*.

L.Pref. What was then agreed upon about letters when you were at Mr. *Loves* house?

C.Pot. I have a very bad memory, I cannot speak to time, and places, and persons; such letters I have heard of were written, I professe I can speak no more knowingly. I never had a hand in any one letter, but such letters I have heard of.

L.Pref.

L. Pres. Upon what account did you meet at *M. Love's* house?

C. Pot. I met there sometimes upon a friendly account, sometimes upon a christian account, and sometimes to hear news, and sometimes to tell news.

L. Pres. Where did you meet with these persons, with *William Drake*, and these so often mentioned?

C. Pot. My Lord, there was a correspondency in point of news.

L. Pres. Between whom?

C. Pot. Between capt. *Titus* there, and *William Drake* here, and he would tell us many times news there.

L. Pres. Do you know *Titus* was employed as an Agent hence?

C. Pot. I think he was.

L. Pres. Had he money collected?

C. Pot. I do not know of one penny I lent him, and I never contributed to him.

Att. Gen. My Lord, ask him, whether himself did not upon an occasion contribute ten pounds, and bring it into *M. Love's* parlour.

C. Pot. I confesse that.

Att. Gen. For a table-book that was written in sack, do you know of any such thing?

C. Pot. I do. My Lord, I went to *William Drake* in his retirement, and he was writing out of his Papers some letters in a table-book, which he told me was in sack, as I take it.

L. Pres. Why did he write them in sack?

C. Pot. I take it, because it should not be discovered.

L. Pres. Do you not know to whom the letters written in sack were sent?

C. Pot. I know not; but he told me to *Bayley* and *Titus*.

L. Pres. Where was *Bayley* and *Titus* then?

C. Pot. I know not where *Titus* was, but I think *Bayley* was in Scotland.

L. Pres. After *Drake* was gone, where were your meetings usually?

C. Pot. Many times at *M. Love's* house.

L. Pres. When you did meet there, what did you meet upon, was it not to receive Messages from *Titus*, and *Massey*, and *Bunce*, and *Bailey*, and to return answers?

C. Pot. We had sometimes letters read there, but from whom they came, or to whom, I believe few can tell, I cannot tell; something of news we have heard, of affairs; that was the occasion of my coming sometimes.

Att. Gen. Did *M. Love* never tell you the occasions of those meetings, and presse you to lend money to furnish *Massey* and *Titus*?

C. Pot. I can say nothing to that.

Att. Gen. What say you to the private fasts? *C. Pot.* There were private fasts.

Att. Gen. What, for a blessing upon the treaty at *Breda*?

C. Pot. There were fasts kept, but I never understood they were for any other end, but for the sins of, and judgements upon the nations; and for the most part there have been hundreds of men and women there.

Att. Gen. Did *M. Love* often officiate there?

C. Pot. He hath preached and prayed.

L. Pres. Did any pray for a blessing upon the treaty? *C. Pot.* I cannot say so.

Att. Gen. What say you to those letters that came thither after the fight at *Dunbar*?

C. Pot. My Lord, after the fight at *Dunbar* there came letters from *Bailey*, and *Titus*, and *Massey*.

L. Pres. And where were these published?

C. Pot. My Lord, I can say no more; I have heard of these letters too.

L. Pres. Were not you present at *M. Love's* house when they were read or made known there?

C. Pot. Possibly I was; I cannot say I heard the letters read there, I did hear letters by a private hand occasionally afterwards.

Att. Gen. By the oath you have taken, were you not present at *M. Love's* house, when those foresaid letters from *Titus*, and *Bailey*, and *Massey*, were published and read?

C. Pot. My Lord, I cannot say I was there, and I dare not say I was not; it is a year ago; I believe I was there several times when several letters were read, and it may be when those were read.

L. Pres. Whether was there not five pounds given to a messenger that brought them?

C. Pot.

Captain Potter the first Witnesse.

C. Pot. I have heard there was, but I do not know it.

L. Pres. Did you contribute any thing towards it?

C. Pot. I think, I did contribute ten shillings.

L. Pres. VVho contributed besides your selfe, *C. Pot.* I know not.

Att. Gen. VVas there not at *Mr. Love's* a promise of armes, or letters?

C. Pot. My Lord, I cannot say so.

Att. Gen. VVat can you say? *C. Pot.* I have heard there was.

Att. Gen. By whom have you heard it?

C. Pot. I cannot say by whom, or who told me so, either *Mr. Alsford*, or *Adams*, or *Fay*, or some of those men that used to meet there; for it was common, when I was not there, for some or other to meet with me.

Att. Gen. Did *Mr. Love* contribute to the messenger? *C. Pot.* I cannot say, he did.

Att. Gen. My Lord, I do not ask him one question, but what himselfe hath confest.

C. Pot. I do remember such letters I have heard did come, but never saw those letters; I do likewise remember I heard there was five pounds gathered for the messenger, and I do believe I contributed ten shillings towards it.

Att. Gen. VVho else gave besides your selfe, and who received it? *C. Pot.* I profess, I know not.

Att. Gen. VVwhether was there not a Declaration to the Church of *Scotland* then published?

C. Pot. The Declaration, I know nothing of it, you remembred me of it at the Committee, when I was first examined, but I knew nothing of it.

Att. Gen. My Lord, Ask him, whether the State and Church did not write for armes and ammunition at that time after the fight.

C. Pot. My Lord, I have heard so much, but cannot speak positively or particularly to it; I have heard of such letters, but cannot tell by whom; I saw them not.

Att. Gen. To whom were they directed?

C. Pot. I never heard who wrote them, nor to whom they were directed.

Att. Gen. Was there not one letter with *L.* upon it?

C. Pot. My Lord, About the letter *L.* I did receive those letters my self, there was an *L.* written upon them; My Lord, these letters came from *Bamfield* out of *Scotland*; there was in these letters a large Narrative of the Affairs of *Scotland*, from *Dunbar* fight, to the time of the date of them, which I think was about *Christmas*; this is a thing, I know better then (I am afraid I give offence by saying, I think, and I heard, and that I cannot speak positively; but of this I can speak positively.) *Bamfield* gave an account therein of a Narrative of two sheets of paper, and I, and another, or two, opened them, and I carried these letters to *Mr. Loves*, there was one or two more, with me: *Mr. Faquell*, and I think *Dr. Drake*, I cannot well tell. There was a Narrative of the *Scotts* Affairs, and a Letter from namelesse persons, which we supposed to be from *Mr. Buily*, and from my Lords of *Argile*, and *Lowden*, and *Loublan*, and others, whose names I doe not remember: these letters wrote for ten thousand pounds, for buying of Armes, and hiring of shipping; these letters we disliked, and we dissented from them, and agreed to give a negative answer; but we thought fit for our own safety, to raise some money for the messenger, and *Bamfield*, to which I contributed ten pounds. I carried all these letters to *Mr. Loves*; one or two were opened, I think we opened them, the Narrative and my Lord of *Argiles* letter I opened before I understood what they were.

Att. Gen. Why did you carry them to *Mr. Loves*?

C. Pot. There was a great deale of news in them: there was a letter *L.* and I did in my examination say, I conceived it was to *Mr. Love*: but now upon my oath, I do not remember very well, and I do not think it was to *Mr. Love*. I do confesse, I carried these letters to *Mr. Loves*, I, and *Mr. Faquell*; these letters were opened, but whether *Mr. Love* opened them, or I, or the other, I cannot tell.

Att. Gen. With whom did you leave them? *C. Pot.* I brought them awayall of them.

Att. Gen. VVere they not read? *C. Pot.* They were all read.

Att. Gen. He confesseth further, he paid ten pounds: to whom were the letters directed?

C. Pot. The letters had no direction at all upon them, I believe.

Att. Gen. My Lord, Ask him whether there was not a sum of four or five hundred pounds agreed to be raised.

C. Pot. The advise that was given to that, was, that we should do nothing in it, and we did nothing in

in it more then I tell you, I carried those letters to them, and had discourse of them, and resolv'd to do nothing in them. *Att. Gen.* Why did you carry them to Mr. *Loves*? *C. Pot.* I went for advise what I should do in them. *Att. Gen.* My Lord, Pray ask him concerning the foure or five hundred pounds, and for what, and whether this discourse was at Mr. *Loves* house, whether there was not a Proposition for raising of four or five hundred pounds, and for whom this was to be raised, and where to be raised, and by what means? *C. Pot.* I heard there was, I do not know the place where: to this I contributed ten pounds, I brought it one evening to Mr. *Loves* house, and there I left it.

Att. Gen. Where was this money agreed to be raised? *C. Pot.* I cannot speak to that.

Att. Gen. V Who took the Subscriptions? *C. Pot.* I cannot speak to that neither.

Att. Gen. Did Mr. *Lowe* contribute? *C. Pot.* I cannot say he did.

Att. Gen. Was it in his house? *C. Pot.* I do not know that I subscribed at all, I do not think there was any (subscriptions; I am sure, I never subscribed my name.

Att. Gen. When you came into Mr. *Loves* parlour, and left the ten pounds, did you not give him a twitch by the hand? *C. Pot.* I cannot say so: *His Examination was again read.*

L. Pres. Is this true? *C. Pot.* The substance of it is true.

L. Pres. Of your own knowledge? *C. Pot.* Of my own knowledge, that I left so much money.

The Clerk reads more of his Examination. *C. Pot.* This is a Section I never worded, nor phrased my selfe, I have heard as much as this comes to, but cannot speak it knowingly.

Att. Gen. Did you not write this your self? *C. Pot.* I believe not, I cannot positively say, that Mr. *Love* either drew up the letter, or received the letter.

Att. Gen. You say he received the letter from your owne hands? *C. Pot.* But not the letter from *Titus*, and *Baily*.

Att. Gen. Do you know of a way of correspondency laid at *Kendal*, or no? *C. Pot.* I heard there was such a correspondency.

Att. Gen. By whom? *C. Pot.* I cannot say by whom.

Att. Gen. Do you know that *Groves* was sent to look for letters there? *C. Pot.* Yes.

L. Pres. Did Mr. *Love* know of it? *C. Pot.* I cannot say he did.

Att. Gen. V What had *Groves* for his pains for going? *C. Pot.* Ten pounds. *At. Gen.* From whom? *C. P.* I paid it. *Att. Gen.* Did you receive any of it again? *C. Pot.* I did receive some of it, I received two 10 s. by severall persons. *Att. Gen.* From whom? *C. Pot.* From *Gibbons*, and *Alford*, and *Far.*

At. Gen. Not from Mr. *Love*. *C. P.* I do not know I ever had a farthing from him in my life.

Att. Gen. My Lord, ask him whether there was not letters return'd to *Bamsfield* again, and by whom. *C. Pot.* My Lord I did receive a letter that I suppose was to *Bamsfield*. *L. Pres.* from whom did you receive it? *C. Pot.* It was left in my shop. *L. Pres.* By whom? *C. Pot.* I cannot say by whom.

L. Pres. Whom do you conceive it came from? *C. Pot.* I think from Mr. *Love* or Doctor *Drake*.

Att. Gen. Do you conceive so? My Lord, ask him whether Mr. *Love* or Doctor *Drake* was not appointed to draw the letter. *C. Pot.* When we were together, there was a negative answer resolv'd upon, and this answer to the best of my remembrance was agreed to be drawn up by Mr. *Love*, and Doctor *Drake*; but I received this letter. *At. Gen.* And who received the thirty pounds. *C. Pot.* I cannot tel. *At. Gen.* But you sent the letter. *C. Pot.* I did. *At. Gen.* Ask him whether he did not send for Mr. *Love*, and what discourse pass'd between them, since he was in prison. *C. Pot.* I did send for Mr. *Love*, and he did come to me, and I desired his counsell as a Minister, and I told him upon what score I was questioned, then J was questioned upon Mr. *Cook* only, and he gave me encouragement onely as a friend and Minister of the Gospel ought to do. *At. Gen.* What was that? *C. Pot.* He wisht me to make a Christian use of my afflictions; and gave me some other instructions, we had an hours discourse, and it was all to this purpose: he wisht me to make a Christian use of my restraint, and to labour to get Christian Wisdom and fortitude. *L. Pres.* What did he say more to you? *C. Pot.* My Lord, no more pass'd between us, and J gave him an account of what questions J was examined upon in *Cook's* businesse.

L. Pres. Did you give him an account? *C. Pot.* I have said so, and he did advise me to prudence, and fortitude, and courage.

At. Gen. Did he not advise you to be courageous, and that unless you discover one another, you were safe enough? *C. Pot.* My Lord, my keeper was with me, and we had no such discourse.

At. Gen. Did he not wisht you to be silent? *C. Pot.* Either then or since he did tel me there was a letter came from Mr. *Drake*, that told him *Titus* his man had taken some letters from *Titus*; but he could not conceive how it could concern me.

Att.Gen. But did he discover nothing, and wish you to be prudent for your selfe, and them?

C. Pot. He did not then.

Att.Gen. VVhen then? *C. Pot.* I saw him not since, and he told me of *Bamfields* man.

Att.Gen. How came it about *Mr. Love* spake with you?

C. Pot. I did prevail with my keeper to go with me to dinner, and to take a glasse of wine, and then I provided for *Mr. Loves* coming to me.

Att.Gen. What hath *Mistresse Love* said unto you? *C. Pot.* I saw her ever and anon.

Att.Gen. What hath she said to you? *C. Pot.* She hath wish'd me with tears to have a care of her husband, and not to discover any thing, I think she hath.

Att.Gen. Did not *Mr. Love* say then, that he had been at a fast, where you were remembered?

C. Pot. He did so.

Att.Gen. My Lord, I confesse, I was with this man in the Tower, as I am bound to do by my place, to examine him; he had made his examination before I came thither, and I brought it with me. My Lord, I did ask him questions, he did answer me upon knowledge, he did confesse the truth, but told them, *Mr. Attorney Generall* was pleased to help him to particulars, and bring them to his remembrance.

C. Pot. I professe, if it had been to save my life, I could not affirm them, but you putting me in mind of it, I did know of it.

Att.Gen. At the Committee of Examinations, then he had more particulars told him, and he did confesse he did know them all, and he may give you an account, whether he did not give an account under his own hand: My Lord, I am not abused, but the Council of State, and the Parliament are abused, and if this man should do this wrong to *Mr. Love*, and informe the Court and Council, and the man be brought upon his life, because he hath affirmed it, and that severall times before severall Committees. This man must not scape unpunish'd, if for no other fault but this, to accuse a man before Authority, and when he comes to his oath to deny every word of it. *Captain Fisher* will witness, that he did bring all under his own hand, and upon my credit, he did speak as fully as we did open, and much more fully; and I answered, upon here-say, how do you know it? and he said he did know it, he did remember it, and he did put it down positively, and that when *Mr. Drake* went away, all the meetings were at *Mr. Loves* house, and *Mr. Love* did still declare the occasion of the meetings, and the letters were opened by him, and the discourse upon them; and every word he said upon his own knowledg.

C. Pot. I do confesse again, that before *Captain Fisher*, and *Mr. Attorney* did prompt me——

Att.Gen. Prompte you, Sir! *C. Pot.* Before he did remember me of them, I had forgot them, as if I had never heard them; but it is one thing to remember a thing as I have heard, and as I conceive to be true, and another thing to swear to it positively: and the paper allowed me this latitude, some of it, I have heard, the rest I believe, and some I know, and upon this account I believe it is all true.

Att.Gen. My Lord, 'Tis possible, I might wish him to expresse what he did know himselfe, and what he did know by relation of others, and so did set it down, and he did it fully and clearly; and after all this, brought it in again written with his own hand to the Councell of State.

Att.Gen. My Lord, if you please, *Captain Fisher* may go for the Originall under his own hands.

Clerk. The Originall cannot be found.

Mr. Love. Here is nothing at all that concerns me about the business of *Titus*, in *Jerse*, and about the letter from *Titus*, and the copie of the letter from the King; he tels you he doth not know it was in my bonse, he tels you it was but a copie, not the Originall.

Captain Potter withdraws. Major Alford called into the Court, and takes his oath.

Att.Gen. My Lord, let him declare what he knows either by himselfe, or others, and of his employment at *Calice*: make the whole Narrative as much as you can remember.

Major Alford. My Lord, I was one morning wish'd to go with *William Drake* to the Swan at *Dowgate*, hearing there was a Gentleman lately come from the Prince, where I should hear all the news from beyond the Seas; when I came there, it was one *Captain Titus*, one whom I had never seen before, and he gave a relation of the good disposition of the Prince, and how inclinable he was to take the covenant, and to cast off the cavaliering party, and those about him, if there were an opportunity to make it known, that there was a considerable party in England that would stick close to the ends of the covenant. Upon that Sir, my selfe, and some others that were there, did think we were bound in duty, and in relation to the Covenant, to presse the ends of the Covenant, for the Prince to take it, and

to prosecute the ends of it. And for that Captain *Titus* said, if we would appoint another meeting, he would draw up something by way of attestation or petition to the Prince to that purpose. My Lord, we did meet at the Bear in *Breadstreet*, and there he did draw forth something that he had framed to that purpose, and he read it; and afterwards (not at that time) it was agreed upon to be sent over to the Prince. The substance of it, was to presse the Prince to apply himself to take the covenant, and to prosecute the ends of it; and to cast off all his cavaliering party about him, which had brought so much mischief to his father, and would do the like to him. This Captain *Titus* drew up, and this I believe was sent over, for *Titus* undertook to send it over. I did ask how the Prince should be made to believe, that this coming from an inconsiderable party, as we were, should come under the notion of the Presbyterian party of *England*, for it went under that notion? He said, he should undertake that by the means of my Lord *Piercy*. And the petition that was agreed upon, he did send over, I believe, for I did not carry it to the post-house, but he did undertake to do it. Afterwards he went over himself, and when he was over, he had information that there was notice of his being here, and of the business he was upon; and therefore he writ over to *William Drake* (as *M. Drake* told me) that he did desire some of us that knew of the business, should be sent over to him, to receive that account from him which he had in the business. So *M. Drake* did persuade me to go over to *Calice*; and having some business of my own, I did go over to *Calice*. I went from my house on the Friday night, and I was back again on the Tuesday following: And he did give me an account of that transaction. The substance of it was this: It was about his own troubles he had undergone there by the cavaliering party, in managing that business. He had likewise been imprisoned, and they told him they would try him as a spy; and that they urged hard against him; and that he was in that condition till my Lord *Liberion*, the Scotch commissioner, came over; and by his means he had access to, and favour with the Prince. And that was the substance of all. He said the King was averse to the covenant, not of himself, but by reason of those counsels that were about him. And this was the substance of that account he gave me of his transaction there at *Ferisy*, in reference to the business he went upon. And this he gave me in writing, which I brought over to deliver to *M. Drake*, for it was directed to him, which I did deliver. Afterwards *Master Drake* carried them to *Master Loves* house, where they were read. And that is all as to that business.

Then afterwards there was a commission, they called it a commission, it was agreed upon among us, to be sent over to my Lord *Willoughby* of *Parham* and *Massey*, and I think *Graver* and *Titus*, that they should agitate and act for us at *Bredab*, and to advise with the Scotch commissioners that were there, in the behalf of the Presbyterian party here in *England*; and that is all in relation to that. Afterward *M. Drake* read to me the copy of a letter in characters, which he had written himself in his own back-shop, which he told me should be sent to the Queen, which was to persuade her to persuade the King, as he came that way, to close with the Scots, for that was the likeliest way to make good his own interest; but that was at *M. Drake's* house, only between him and I. Afterwards *M. Drake* told me he had disbursed money about receiving of letters, and receiving of news, and did wish me that I would let him have ten pounds, and said he would speak to some others of his acquaintance to do the like, and if he could get up a considerable sum, I should have part back again, for he said the charge was too great for him to undertake; and I do think he had ten pounds of me for that. After *Dunbar* fight, there was I and some others at *M. Loves*, in his great lower room, where was a letter read that was said to be from Major General *Massey*, that gave an account of the business of *Dunbar*; and also did write for Arms, I know not how many thousands; and to that purpose, that they might be provided by the way of *Holland*. But upon that, all that were there did say—I heard no man speak of providing arms or any such thing. He writ in his letter, that for his own necessities, and Captain *Titus* that was there, that a motion might be made for providing some money to send over for their supply; and it was then said, we were so inconsiderable, and so few, that the sum spoken of could not be done; and therefore it was moved, that every one should do by himself and friends what he could. This was the substance of that.

Ans. Gen. I believe, My Lord, he hath dealt ingenuously with you. This in the general. I pray you ask him, what he knows concerning any letters that should have been sent at the beginning of the change of this government to *Scotland* from any part of *England*.

Major Alford. For that I know nothing; but heard *Mr. Drake* say, that he had correspondency with some in *Scotland*, and I have heard him use one *Mr. Baileys* name; and he had a cypher which they writ by.

Major Alford the second Witness.

Ass. Gen. For the Swan at *Dwigate*, he gave relation of that; but who was present then?

Maj. Alford. Truly my Lord, it is so long since that I cannot positively tell; but I am sure I can remember there was *M. Huntington*, and *William Drake*, and *Lieut. Col. Bains*: And I cannot tell, my Lord, I think there was one *Mr. Hall*.

Ass. Gen. Was *Mr. Gibbons* there or not?

Maj. Alf. Truly, My Lord, I cannot tell whether he was there at that time or no.

Ass. Gen. My Lord, he saies *Titus* at that time did give relation of the Prince and his party. Can you remember what that relation was? and do you know whether this was not afterward communicated, and to whom?

Maj. Alf. I have given you the substance of it; but for communicating of it, I knew it from none but onely from those there.

Ass. Gen. *Titus* took time to draw it up?

Maj. Alf. He did so; and at the next meeting at *Breadstreet*, there were the same men again; and I think at the same time there was *Col. Barton*.

Ass. Gen. Was there no mention then (when it was propounded to you to be a considerable party) was it not said the ministers were to be acquainted with it?

Maj. Alf. It was asked *Titus*, how the King should be possessed that this came from the Presbyterian party in *England*, because it was agreed upon that there should be no names used to it? he said there needed none, but onely the ingagement of the ministers in it.

Ass. Gen. What ministers?

Maj. Alf. Truly he did not speak a word of any man that I know of.

Ass. Gen. Was it not then propounded, that *Titus* should be sent to the Scotch King before Commissioners came to him, to have a correspondency sealed between him and some others here?

Maj. Alf. I cannot say at that time, but afterwards. Whether at that time or any other I cannot tell, but one time *Titus* said, he had learned from my Lord *Piercy*, which had hastened him over, that this business was of that concernment, that they that did undertake it should be there before the Scotch Commissioners did come. And thereupon *Titus* (as *William Drake* told me, for this was not at the meeting) was perswaded to undertake to go about this business.

Ass. Gen. Whether was there not some directions given for a letter to be written to the Queen, to prepare the Articles with the Scots?

Maj. Alf. I cannot say any thing but what *William Drake* told me privately between him and I, as to that purpose, a letter to the Queen.

Ass. Gen. What was that?

Maj. Alf. I did tell your Lordship.

Ass. Gen. My Lord, ask him whether he was not at supper with *Titus*?

Maj. Alf. No my Lord, I was not there when he offered himself to go, as I know of.

Ass. Gen. What money had *Titus* to bear his charges?

Maj. Alf. Thirty pounds.

Ass. Gen. From whom.

Maj. Alf. From *William Drake* singly.

L. Pres. Did not *Drake* gather it up again?

Maj. Alf. My Lord, I cannot tell; I know nothing of any man, but what I did myself.

Ass. Gen. We were now speaking of the meeting at *Mr. Loves* house, and of *Titus* letter being read, and he sent. Let him give a particular relation of that again. I make bold to ask him questions to help his memory.

Maj. Alf. The letter that was read of *Titus*, was not at *Mr. Loves* house, as I know of (but *Mr. Drake* for all things came to him; and we knew nothing but onely from him; for the correspondency was sealed between *William Drake* and Captain *Titus*) nor at any publick meeting that I know of, but what *Drake* told me.

L. Pres. But you were at *Mr. Loves* house, you said but now.

Maj. Alf. I was, but not upon this accompt, it was after I had been over; for I do not know that ever I was at *Mr. Loves* house, or ever spake with him till I went over: if I have, I have forgot that ever I spake in my life to *Mr. Love* about it, till after I came from *Calice*; and then I did bring over a relation, and gave an account of it concerning *Titus* his transactions.

L. Pres. That account you gave at *Mr. Loves* house?

Maj. Alf. No, my Lord, I gave it to *William Drake*, for it was directed to him; and it was three or four daies after that we met at *Mr. Loves* house, where *Mr. Drake* read the thing.

L. Pres. At what time was it?

Maj. Alford. At the time when the Scotch King was at *Ferfey*.

Ass. Gen. Whether did you bring from *Titus* a copy of a letter from the King?

Maj. Alford. That I forgot; but *Titus* did shew me a letter, at leastwise he said so, that he had it from the King, that he sent to this Presbyterian party. And, my lord, he did copy out the letter, and the copy he gave me, which I did bring over.

L. Pres.

L. Pres. To whom did you deliver it?

Maj. Alf. I delivered it to *William Drake*, I gave it *Mr. Drake* himself, and I think at his own house; I think it was the same, and that it was read at *Mr. Loves* house. The substance of it was this, as he told me, That he took in good part the petition or application that was made to him; and if ever God did restore him, and that he was in a condition, then he should think of it.

L. Pres. What did he speak of a non-compliance with the present Government, and by whom?

Maj. Alf. I do not remember a word of that.

Att. Gen. What said he concerning the *Scots*, and what he would do for the Ministers, if God restored him? *Maj. Alf.* I cannot tell any such passage, nor do I remember the particulars of it.

L. Pres. The letter was then read you say?

Maj. Alf. I suppose it was the same that I gave to *Mr. Drake*, but I cannot say it was the same, because it was not in my custody.

Att. Gen. Did not you propose to send fifty pounds to *Titus*?

Maj. Alf. For that, I heard say that there was fifty pounds sent to him, but whether it were or no, I know nothing of it, nor did contribute to it, nor knew nothing of it.

Maj. Alf. Did not you make a Narrative your self of what you received by word of mouth from *Titus*? *Maj. Alf.* It is very like I did speak of it to this purpose I tell you of, I do not know particularly what I said.

Att. Gen. Did you not receive an account from *Titus* of his transaction at *Ferisy*?

M. Alf. I did.

Att. Gen. Did you not give an account of that you received from him?

M. Alf. He gave it me in writing, and I delivered it to *Mr. Drake*.

Att. Gen. But when you met at *Mr. Loves* house afterwards, did you not make some narrative of what you received from him by word of mouth?

M. Alf. I had it not by word of mouth, but only by the delivery of papers to me, which he could not bring over with safety. *L. Pres.* Were those papers read at that meeting?

M. Alf. I tell you, my Lord, I delivered them to *Mr. Drake*, and *Drake* did read some papers, and I believe they were the same, but I cannot say they were the same, for they were out of my custody.

Att. Gen. Who then were there present? *M. Alf.* There was *Mr. Love*, *Dr. Drake*, *Mr. Case*, *Major Adams*, *Mr. Gibbons*, and *Capt. Far*. Truly, I cannot particularly tell.

Att. Gen. This was given him at *Mr. Loves* house, and *Mr. Love* present. My Lord, I pray you ask him whether *Titus* his message was not well approved of, and the letter of thanks to be returned, and the hundred pounds in money?

M. Alford. I do not remember any of these things you speak of now.

Att. Gen. What do you remember was said concerning him there?

M. Alf. I do not know what was said; I do not know what any man could say to them which were papers from him; I do not remember any particulars, it is so long ago; I believe now it is two years ago.

Att. Gen. Do you not remember that this was one passage in the *Kings* letter, that the King willed them to send Commissioners to *Bredab*?

M. Alf. I do not remember that.

Att. Gen. But was there not a commission at *Mr. Loves* house agreed upon to be sent?

M. Alf. That there was.

Att. Gen. What was to be the effect of that commission?

M. Alf. It was to advise those men to joine with the *Scotch* commissioners, to take advice with them, and to accept the *Presbyterian* party with the King, in relation to the first petition that was sent.

Att. Gen. Was *Master Love* there?

M. Alf. *Mr. Love* was there; but I do not know what *Mr. Love* or any man did direct in it.

Att. Gen. Who did correct those instructions?

M. Alf. I cannot tell.

Att. Gen. Who was agreed to prepare the commission?

M. Alf. I do not know, for I believe it was prepared when it came there; I heard that which we call a commission read there, but who prepared it, or acted in it, I do not know.

Att. Gen. Did *Gibbons* bring it?

M. Alf. Who brought it I cannot tell.

Att. Gen. Who were the Commissioners?

M. Alf. As I remember, my Lord *Willoughby* of *Parham*, and *Massej*, and *Alderman Bunce*, and whether *Titus* and *Graves*, I cannot tell.

Att. Gen. Was this in *Mr. Loves* study, or in another place?

M. Alf. It was in *Mr. Loves* study.

Att.

Att. Gen. Was the rough draft corrected by any body or no? *Mr. Alford.* I cannot tell whether it was or no, nor can I remember any more particulars of it then what I have given you.

Att. Gen. V What do you know concerning any instructions to give power to the Commissioners what to do? *Mr. Alford.* At the same time there was agreed upon some instructions for them to walk by, which was the substance of the petition which had been formerly sent, that is, it prest the King to take the Covenant, and to prosecute the ends of the Covenant.

Att. Gen. V Who carried the commission and instructions? *Mr. Alford.* One *Mason*.

Att. Gen. Who was that *Mason*? *Mr. Alford.* I did not know him, but I have heard say, he did belong to my Lord *Piercy*. *Att. Gen.* Was there not at that time some letters propounded to be written to the Queen, and *Fermie*, and to what purpose? *Mr. Alford.* I cannot tell that any of these things were propounded there, but *Mr. Drake* had told me, and read to me in characters some that he had writ thither. *Att. Gen.* And was it sent? *Mr. Alford.* I cannot tell, for it was privately between him and I.

Att. Gen. When this Commission was thus brought into *Mr. Loves* study, was there not a question propounded, what warrant have we to send Commissioners, and by what authority, and what was the resolution upon it? *Mr. Alford.* Well it may be, but I do not remember it.

Att. Gen. Do you remember who went with *Mason*, when he carried away this?

Mr. Alford. None went with him, but I, and *Mr. Gibbons* did carry the papers two or three dayes after that we had from *Mr. Drake*, which was this commission we speak of, to *Grausund*, to *Mason*; for he was at *Grausund* before, and there delivered it to him.

Att. Gen. What was the effect of these instructions? *Mr. Alford.* The substance of them was according to the first commission, to presse them to use all their indeavour to advise, and take advice with the Scotch Commissioners how to presse the King to take the Covenant, and to joyne with the honest party, the Church party in Scotland; that was the substance of it.

Att. Gen. Did he not write to you to send money to the King? *Mr. Alford.* I heard *Mr. Drake* once say, there was a letter from my Lord *Piercy* to that purpose, but Captain *Titus* himself writ against it. *Att. Gen.* What course or way was propounded to raise money? *Mr. Alford.* I know of nothing propounded that way. It was not agreed for me at that meeting to go down, but *Mr. Drake* suddenly went down, and *Mr. Drake* alone spake to me.

Att. Gen. But betold you it was the first advise of some others? *Mr. Alford.* Truly, I do not remember that he did tell me so: there was a commission and instructions read at *Mr. Loves*; but whether agreed upon there or no, I know not.

Att. Gen. What know you since *Dunbar* fight? *Mr. Alford.* For that, we met at *Mr. Loves* house, in his lower room, and there was a letter that was said came from *Massey*, wherein he gave an account of that businesse, how many men were lost, and that he did write for *Armes* to be sent, and in his letter did propose a way, as I remember, to be done by the way of *Holland*, I cannot tell the particular number of *Armes* he writ for; but for *Armes*; and also did speak something in it concerning his own, and *Titus*'s necessity, they being there strangers.

Att. Gen. There was a Proposition made of raising some money for supply of their necessities?

Mr. Alford. It was not to purchase money, or armes, for any such thing, but onely a Proposition made for supplying those Gentlemens personall necessities.

Att. Gen. And how was that to be done? *Mr. Alford.* It was to be done among our selves, to raise some money; there was five hundred pounds spoken of, but it was impossible for us to do that, for us that were inconsiderable men, being men of mean estates; and for uncles, and so it was brought down to a lesse sum. *Att. Gen.* What was that sum? *Mr. Alford.* Either two or three hundred pounds, I cannot tell which.

Att. Gen. How was that to be raised? *Mr. Alford.* It was to be raised among our selves. *Att. Gen.* And did you subscribe then presently? *Mr. Alford.* No, I did not.

Att. Gen. Who did? *Mr. Alford.* I cannot tell that any did; for I then said, that I did not know that either my selfe, or any there, was engaged by promise, to do any thing for any, onely for Captain *Titus*; for he alone was there upon our Interest; and therefore I said, for that I would contribute ten pounds.

Att. Gen. How much did *Mr. Love* contribute? *Mr. Alford.* I do not know of any particular sum.

Att. Gen. Did *Mr. Love* presse you to contribute, or move any to do it?

Mr. Alford. Truly *Mr. Love* did move to contribution of money, for the purpose we speak of, for the supply of *Titus*. *Att. Gen.* When was *Titus* there? *Mr. Alford.* I cannot tell.

L. Pref. Did *Mr. Love* move it? *Mr. Alford.* Yes, my Lord.

Mr. Love

Mr. Love. Was I the first that did move it? *Mr. Alford.* Truly, I cannot tell that.

Att. Gen. Was it at that time that the letters were read? *Mr. Alford.* It was at that time.

L. Pref. And was *Mr. Love* there then? *Mr. Alford.* Yes, it was at that time.

Att. Gen. Do you remember of any Declaration of the Kirk and State read at that time?

Mr. Alford. No indeed, I do not.

L. Pref. You did say, that the Letter did mention for armes? *Mr. Alford.* But we did all every one of us dis-avow that, but onely the supply of their particular occasions.

Att. Gen. Was there no motion then made for a letter to be written to the Church of Scotland, to presse them to union and moderation. *Mr. Alford.* Not that I know of.

Att. Gen. Was there not a motion of sending fifty pounds to Colonel Graves? and what succeeded upon it? *Mr. Alford.* I doe not know of any particular, but only of the sum to be raised in respect of *Titus*. *Att. Gen.* How should your 300*l.* be disposed of? *Mr. Alford.* That I cannot tell.

Att. Gen. For whom was it to be raised? *Mr. Alford.* I told the Court that it was proposed for *Massey*, and for *Titus*. *Att. Gen.* Did you pay your money? *Mr. Alford.* No, I did not pay it, for I went out of town presently: I did promise ten pounds, and ten pounds *J* paid, but *J* cannot tell to whom I paid it, I believe it was paid by my man.

Att. Gen. Did he bring it to you upon account as paid? *M. Alford.* I believe he did.

Att. Gen. What do you know more? *Mr. Alford.* Truly, Nothing more.

Att. Gen. What do you know of any correspondency settled at *Kendal*? *Mr. Alford.* N thing at all.

Att. Gen. This was since *Dunbar* fight. Do you know of any letters that came from the *Kirk*, or *Lowden*, or *Argile*, or any of those? *Mr. Alford.* No, *J* know nothing of that.

Mr. Love. You confesse you went to *Callice*, and brought the copie of a letter from *Titus*: Did *J* send you to *Titus*? *Mr. Alford.* No, *J* do not say you did.

Mr. Love. It is alledged by this Gentleman, that it was sent out of my house, Did *J* write any letter by you when you went into *Holland*? And upon your coming home, you saw the copie of a letter was read at my house, will you swear I was in the roome at the time when the letter was read? I was in my house, but did not I go often out and in? Sir, I do speak this, because some at the Committee said, I went in and out often. Do you swear that I heard the letter read in my house?

M. Alford. *M. Love* it was read in your study, but that you were there when the letter was read, I cannot tell.

M. Love. He says he cannot tell that I heard the letter read. *M. Alford.* I cannot tell whether you might go out.

M. Love. How long ago was this letter. *M. Alford.* I think it was at that time the King was at *Ferry*, I cannot remember the month, I think about two years ago.

M. Love. Was the letter sent to me, or was it received by me? *M. Alford.* I did not say it was, I gave the paper I brought over from *Titus* to *William Drake*, and some two or three dayes after, when we did meet at your house, *M. Drake* read those papers, for he told me they were the same, but I cannot tell they were the same.

Mr. Love. I desire he may be asked whether I did give my consent to the sending the pretended Commission he speaks of. *M. Alford.* Truly, there was not any mans particular assent asked, that I know of. *L. Pref.* Was it not agreed in the generall that it should be sent over?

M. Love. I pray ask him this question, did not I dissent from sending the Commission?

M. Alford. I do not remember it.

M. Love. For the businesse of money, he saith, there was two or three hundred pounds raised, do you affirm I raised a penny? *M. Alford.* I did not say it was raised, but I say it was there propounded to be raised. *L. Pref.* This he did say, There was a proposall for the doing of it, and you did persuade the doing of it; and he left ten pounds with his man afterwards.

M. Love. Ask him whether there was not a letter at that time read, that *Massey* was withdrawn at that time in discontent from the Court? *M. Alford.* I do not remember that particular.

M. Love. Ask him whether the money was sent to buy armes, or raise forces, or only to supply his wants, he not having a livelyhood. *M. Alford.* It was not for armes, but it was for *Massey* and *Titus*, to supply their necessities.

M. Love. But he proves not that I lent any. *M. Alford.* I do not say you did.

Att. Gen. Observe Sir, there was a letter for armes at *M. Loves* house, read there, and *M. Love* did...

did propound three hundred pounds to be raised, and prest the doing of it accordingly. *M. Alford* did likewise lend ten pounds; you may beleeve there hath been tampering with this witness too. My Lord, ask *M. Alford* whether there was not a letter brought to him by his Sister. *M. Alford*. My Lord, after I had liberty for my wife to come to me, she did give me a paper, which I knew was my Sisters hand; if I saw the thing I could tell, but it did miscarry. *Captain Fisher*. My Lord the messenger is here in the court that did take the letter, of which this is the true Copy word for word.

Major Alford withdrawes, and Major Huntington is called into the Court, and is sworn.

L. Pref. What do you know about *M. Loves* house, about the Commission, and *Captain Titus*?

M. Huntington. My Lord I can say, that about *March*, 1648. I met with *Major Alford*, and he told me that *Titus* was in town, and asked me if I knew him, and I told him, I; and asked him where he was, he said he was newly come from beyond Sea, from the Fry, there being *Alderman Bunce*; I asked him where he was, he said little to me; but he said he was to meet him the next day at the Swan at dowgate, that there was to be some Citizens in order to those Gentlemen beyond the Seas, to speak with him there. I did meet, and the Citizens there were *Col. Barton*, *Col. Vaughan*, *Captaine Maffey*, *L. Col. Bains*, and I think *Hollis* his man, I am not certain of it; but *Captain Far* was there: the business at that time, was only commendations from their friends there; and to tell them that he was commended to their acquaintance. And afterwards, he grew into very high praises of the Prince, and that he had the knowledge of it from a Scotch Lord, I know not his name. After this he told them the Prince was running very unhandsome courses, and they had very great hopes, that his own inclinations did not lead him to it, but it was the Malignant party about him, that had a prevalency over him there, as over his Father here; but he did rather incline to join with the Irish Rebels, and did beleeve he would incline that way, unless he could get something from hence, to divert him from it; whereupon he did hope they would all set themselves that way, and that he would get letters from persons of honour (whom I know not) that should perswade him into a good belief of the Scots, and to take the Covenant; after this there was a meeting again, I think fourteen days after, at the white Hart in Breadstreet, and there I met too; in the time that I was there, I did understand there had been a meeting or two before in order to the business, & *Captain Titus* did declare he had now again letters from persons of honour, to send to my Lord *Piercy*, and did hope they would set something a foot amongst themselves of the like consequence: for *Maffey*, *Bunce*, and *Graves* could see no way under the heavens but for the King to take the Covenant, and joyn with the Scots, and to engage the Covenanting party here. And to that purpose, he draws forth a paper that did purport that they were bound in honor, and justice, and conscience, and I think *Loyalty*, to maintain him in his just rights, if he would go and joyn with the Covenanting party in *Scotland*; and that he had no other way under God, but that; which if he did, they took themselves bound in Conscience to help him to his just rights. Upon this *L. Col. Bains* makes objection to it, and said, it was a Malignant business, and did fear there was no good designe in the thing, and thereupon they did break up. I cannot tell whether it was sent or no, for they were afraid he would betray the business.

After that I was told by *Major Alford*, that *Bains* told them, he was very sorry he should meddle in that business, and that they would never prosper, that had any thing to do with him, for that the sins of him and his Father were so great; whereupon they were very wary and afraid he would discover the business. And he, I think, knew no further. After this, I did understand this letter was sent to the Prince, and I was told so by *M. Alford*, that it was sent in the name of the secluded members, and Ministers, and Citizens, and souldery, and Noblemen; I remember it fetch'd a great compassse: whereupon when the Prince saw this letter, and had it from my Lord *Piercy*, he stormed at it, & said, Who are these Noblemen, and the rest? What can they do for me? can they raise me ten thousand men? Whereupon there was nothing done, but *Titus* retired himself to his mothers house, & there lived about three quarters of a year, and came to town after, & did sollicite his own business. A little after this, I heard (upon the business of the Scots) that there was another letter sent that did begin the thing again, and now the Prince had considered of the thing, and sent over the letter, and I heard, that it was to the Ministers of *London*. I did not see the letter, but *Alford* and *Drake* told me it was so. After this *Titus* was sent away, and that with a sum of money, as I heard; who lent the money, I cannot tell, and what sum I know not: but presently after this, I coming to town out of the West, in *March* 1649. in the beginning of *March*, the day of my coming to *London*, after I had been here one or two days at most, I met

met with *Hollis* his man in *Fleet-street*, I do not know his name, he merme, and I asked him what news? he told me, he wondred that I was a stranger: and I asked him, what news? faith he, if you come to *M. Love's* house, you shall hear newes; what is your businesse there, said I? he said, it was to pray together, and to hear the newes: I went about nine of the clock, and prayer was over, and the newes a great part was over: but after I did come there, that I did hear, was this; *William Drake* pulled a paper out of his pocket, that I understood he had put into his pocket, or withdrawn, because of a stranger, and afterwards he took it out again. The substance of the paper was to this purpose, as I remember, it was in characters, and pulled out of his pocket, and by him read: In the name of the Commissioners commissionating the Lord *Willoughby of Parham*, Major General *Mussy*, Colonel *Graves*, Captain *Tissu*, and Alderman *Bunce*, in order to the Treaty, in the behalfe of the well affected party in *England*, and these to joine with the *Scotch* Commissioners, according to such instructions that should be therewith inclosed. And some body asked him, what power have we to give such a commission? it was answered again by *William Drake*, that we have the Kings command for it, and wee have likewise the authority of some prudent Parliament man, whom wee look upon (saith he) beyond the power of them that now sit: whereupon *M. Love* replies, Come, come, let it go: and after that I knew nothing. *Att. Gen.* Repeat that again? *Huntington*. When the question was asked, what power have we to send or give commission, saith *Drake*, we have the command of the King to do it; besides, we have the authority of secluded Members; whereupon *Mr. Love* replied, Come, come, let it go. *Mr. Love*. Pray, ask him this one question, Were there no speeches between *William Drake's* words, and those words he pretends were mine? *Huntington*. I remember none.

Huntington withdraws. L. Colonel Bains, is called into the Court, and is sworn.

L. Pref. Speak what you know of this businesse?

Bains. My Lord, Concerning anything that came from *Scotland*, I never knew any thing, nor did I ever hear any thing; for *Dowgate*, I was at two meetings at *Dowgate*; At the first meeting, there was a person that I did not know, which at the second meeting, I was told was Captain *Tissu*, and he at that meeting (where there was nine, or ten, or more, or thereabouts,) he did propose some thing to be done in order to the restoring or preserving the Presbyterian Interest by way of application to the King, as he called him, and did advise it to be by way of petition, and that he conceived to be the onely way to preserve the Presbyterian Interest in *England*; and that way would be the way to assure him, he had a considerable party in *England*; and he did use many arguments, as a duty lying upon us by our Covenant, to apply our selves to him, and he offered to draw up a draught of a petition against the next meeting to that purpose: and he said, it was necessary some thing should be done by some Parliament men, and some Ministers, and some Citizens, that were leading men, men that thereby be might be assured that he had a party, and that considerable. At the next meeting, which was suddenly after, he did produce a paper, which, as I remember, was in short hand; a petition, which was to the purpose I have hinted. There were severall debates, whether it should be signed, or not signed, and my selfe, and two more before disliked it; and before he read the paper, he began to commend the good nature of the King, what good affections he had, and likewise did say, there was a necessity something should be done to the Queen, and *Fermine*, and *Piercy*; who he said, were our friends, that they should stir him up to comply with the *Scotch* Commissioners; and upon this there was my selfe, and two more there present, (I hope it sate upon them, as upon my selfe) disliked the businesse, and from that time for my own part, I never heard any thing; the heads of the Petition I cannot suddenly remember. This paper carries the sum and substance of the businesse.

The Clerk shewes him a paper which he had formerly given in.

Bains This paper, if it be not interlined since, it was of my own dictating, and writ with my own hands, he looks upon the paper. I see no alteration made at all.

L. pref. And this you deliver upon oath? *Bains* Yes, upon my oath, to the best of my remembrance. And as to the Prisoner, I can say nothing.

Bains withdraws.

Major Adams is called into the Court, and is sworn.

L. Pref. Declare your knowledge in this businesse? *M. Adams*. Touching Alderman *Bunce* and *Mason*, I know something by relation touching the correspondency with them.

L. pref. Tell the manner of it. *M. Adams*. I conceive it was carried on by *Mr. Drake*, that is now absent; and in *Scotland*, by one *Baily*.

Att. Gen. V What do you know of *Masse*, and of letters sent by him? *Mr. Adams.* *Masse* I do know, and I do know he did receive letters.

L. Pres. From whom? *Mr. Adams.* He said, from my Lord *Piercy*.

Att. Gen. To whom were those letters communicated here? *Mr. Adams.* They were communicated to *M. Drake*, and by *M. Drake*, to my selfe, and *M. Alford*, and *C. Potter*, and *C. Fer*.

Att. Gen. V Was *M. Love* privie to it? *Mr. Adams.* I cannot say that, my Lord.

Att. Gen. V Were there not letters sent to *Scotland*, to them, and back againe hither about sending moderate propositions to the King? *Mr. Adams.* There was such letters.

L. Pres. V Who writ them? *Mr. Adams.* That I cannot tell. *L. Pres.* Had *Mr. Love* a hand in them? *Mr. Adams.* I cannot say he had. I cannot prove a negative, I cannot say he had not.

Att. Gen. What know you of the petition sent to the King? *Mr. Adams.* I know nothing of it, only I was told of it. *L. Pres.* Who told you of it? *Mr. Adams.* I cannot my Lord fix it upon any particular man, but I believe I was told of it by *Alford*, or *Far*, or *Bajis*; for I was not there at that time.

L. Pres. What do you know about the meeting at the Swan at *Dowgate*?

Mr. Adams. My Lord I was not there. *Att. Gen.* Then my Lord, he may tell you what he doth know?

Mr. Adams. My Lord, upon our meeting in some place or other, I cannot tell where, I cannot tell the time, nor the place, but either at the Swan in *Fish-street*, or at the Swan at *Dowgate*, or in *Cat-cullen street*; in one of these three places, I cannot punctually remember.

Att. Gen. Who was at that meeting? *Mr. Adams.* *Mr. William Drake*, *Captain Titus*, *Major Alford*, *Captain Far*, *Captain Potter*, and my selfe; and I do not know how many more, or whether any more, or no. *L. Pres.* What past there? *Mr. Adams.* It was there agreed, that *Captain Titus* should go over to *Jersey*.

Att. Gen. What was he employed about? *Mr. Adams.* The end of his going, was to endeavour to work an agreement between the King and *Scots*, according to the Covenant. That was the end that was propounded. And in order to his going, wee did agree so furnish him with money for the present, and made some kind of promise to maintaine him while he was our.

Att. Gen. What money was he furnished with? *Mr. Adams.* I cannot be punctually in that, but about a hundred pounds. *Att. Gen.* Who should pay it? *Mr. Adams.* I paid twenty pounds of it, but I cannot tell who paid the rest. *Att. Gen.* To whom did you pay it? *Adams.* To *Mr. Drake*.

Att. Gen. My Lord, Ask him whether when this was sent to *Jersey*, was there not a return made?

L. Pres. Well, go on, There was your twenty pounds gone? *Mr. Adams.* This is the substance of what I can say of his going. *Att. Gen.* Was this twenty pounds that you laid out of your owne, or did you collect it of some of the rest, or did you gather any of it again? *Mr. Adams.* I cannot say that I did.

L. Pres. Did you not? *Mr. Adams.* My Lord, I tell you the truth, I doe not know whether I did, or no; for I remember it was determined that we should gather it at that meeting?

Att. Gen. Did not *Mr. Love* know of the collection? *Mr. Adams.* I cannot say he did, it may be, he might, but I dare not say upon my oath, that he knew of it.

Att. Gen. Ask him what return *Titus* made, what answer, and what account he gave?

Mr. Adams. *M. Alford* went to *Calice* to meet *Titus*, and *Titus* did send word that the Councell of State heard of his being there, and thereupon desired that some body might be sent over to him; for he had something to communicate which he could not well do by writing, and thereupon *Mr. Alford* was sent.

Att. Gen. My Lord, Ask him where the letter was read? *Mr. Adams.* The letter that *Titus* sent, was read by *Mr. William Drake*.

Att. Gen. Where? *Mr. Adams.* At his house, and I think, for I cannot certainly remember, I did not say, upon my Examination that it was read any where.

Att. Gen. Whether were not you moved to go? *Mr. Adams.* There was some motion to that end.

L. Pres. V Who moved it, and where? *Mr. Adams.* V Who moved it, I cannot tell; it was moved, I think, in *Mr. Loves* Chamber. *Att. Gen.* Was *Mr. Love* there? *Mr. Adams.* He was there.

Att. Gen. Did *Mr. Love* move it? *Mr. Adams.* I cannot say he did.

L. Pres. He will not say it? *Mr. Adams.* I cannot say it upon my oath.

Att. Gen. My Lord, so much be faith, that it was moved in *Mr. Loves* chamber, then he may give you an account of *Mr. Alford*'s return, and where the account was given? *Mr. Adams.* The returne of *Mr. Alford*'s account was given at *Mr. Loves* house.

L. Pres. V What was it? *Mr. Adams.* The return he made in generall was by a Narrative, and a copie of a letter from the King: there was with the Narrative that which was said to be the copie of a letter from the King. *L. Pres.* What was the substance of that letter? *Mr. Adams.* The con-

tems of the letter, as I remember, was first, he express'd a great deal of affection to the Ministry of England in general, and promised great favour when he was in a condition to do it, and desired them to continue steadfast in the way they were in. *Ans. Gen.* Was this letter published at Mr. Loves study?

Mr. Adams. It was read. *L. Pres.* Was Mr. Love there? *Mr. Adams.* Truly, to be positive, that Mr. Love was there, I dare not say; but Mr. Love was there at that meeting, either at the beginning or ending, but whether the letter was read at Mr. Loves house I dare not swear; the Narrative from Titus, was a very long one, and very well drawn, I cannot give an account of it now: the whole of it was after this manner; To give an account to us of all the transactions that had happened since his going out of England, he did give an account of his usage by the Cavalier Party, that was against the Kings agreement with the Scots, because there was some did incline to his agreement with them, and there was another party was much against it, and he gave a very large account of that; after that he went on describing his disposition and condition.

Ans. Gen. This was the substance of the rest. Was there not some propositions for giving of thanks to Titus, for his so well managing his affairs there? *Mr. Adams.* There was a motion made by some body.

L. Pres. Who made the motion? *Mr. Adams.* I cannot tell.

Ans. Gen. Was not an hundred pounds more to be sent agreed upon there? *Mr. Adams.* I think so.

Ans. Gen. There was more money contributed, who agreed to lend any? *Adams.* Sir, To that question, I cannot say, who propounded it; but that there was money sent.

L. Pres. Who contributed? *Mr. Adams.* I did my share.

L. Pres. How much was that? *Mr. Adams.* As I remember, ten pounds.

Ans. Gen. To whom did you pay it, and where did you pay it?

Then they shew'd him his Examination.

L. Pres. Come, look upon it, and be well advised. *Adams looks upon his Examination.*

Mr. Adams. I paid it to Mr. Drake at his fathers shop in Cheap-side.

Ans. Gen. Next about the Commission and instructions to be sent, what do you know of that? when this letter was read from the King, and published in Mr. Loves study, whether was there not a Commission agreed upon, to give instructions to treat with the King at Bridab?

Mr. Adams. There was a motion made at Mr. Loves house, that there should be a commission and instructions drawn and sent; the motion was made at Mr. Loves house, they were there spoken of.

L. Pres. By whom, who did the Dialogue run between? Did Mr. Love do it?

Mr. Adams. Truly, for my part, I did not then take such speciall notice, that I dare at this time upon my oath, deliver any thing positively against any particular man, but generally all spake something, as I remember. *Ans. Gen.* Was there any debate to mend the instructions? *Adams.* Truly, Sir, not as I remember. *Ans. Gen.* Did not Mr. gibbons bring the rough draft of the Commission?

Mr. Adams. Truly, I think he did, as I remember he did, I have spoken of the Commission and instructions that were debated then and there, and that many of these persons here mentioned, were there; but that some of them mentioned, might not be there then, is very likely.

Ans. Gen. Was Mr. Love there? *Mr. Adams.* That he was there some part of this time, I am very confident. *L. Pres.* Was it in his study? *Mr. Adams.* It was.

Ans. Gen. Was there a Commission agreed upon to be sent? *Mr. Adams.* For the word agreed, I cannot tell what to say to it; Agreed, holds forth as if a vote passed.

L. Pres. Was there not a general consent?

Mr. Adams. Being upon my oath, I desire to be cautious, for I must be tender in speaking the truth in this case, and I do not know what to make of the word agreed. *L. Pres.* Was it approved of? *Mr. Adams.* To my understanding the thing was this, that at such meetings as these, we were not absolutely formall, as if we had been established by a Court of Justice, to act thus, and that there should be prefaces, and such things, or such methods observed, as that any man undertook to make a preface, either at the beginning, or conclusion, but it was spoken to by many persons; and by every person spoken to, and in this sense it was agreed.

Ans. Gen. Were there not instructions agreed upon, and all this in Mr. Loves study? *Mr. Adams.* It was so.

L. Pres. Were they not read there?

Mr. Adams. I think they were.

L. Pres. Who read them? *Mr. Adams.* I cannot tell who read them, but they were read, and I think Mr. Drake read them. *Ans. Gen.* What was the contents of the Commission? *Mr. Adams.* The contents or the substance of the Commission was to this effect. *Then he reads out of his Examination.*

We the Presbyterians of England, do authorize you the Lord Willughby of Parham, Edward Mus-

Massey, Richard Graves, Cilas Titus, and James Bunce, to assist our Brethren, the Scotch Commissioners in their Treaty with the King, according to the instructions annexed. I dare not swear it in these words, but to this purpose it was. The substance of the instructions were to use all the arguments they could to move the King to give the Scotch Satisfaction, and to take the Covenant; such arguments were mentioned, as the then condition of affairs best afforded, particularly how things stood in England at that time: which did all of them cry out for an agreement, and gave them full power as to all things, and what should be concluded by them, should be confirmed by these here; but I cannot say so, but what words were, were to this purpose, saving this conclusion, that what was concluded, should be confirmed here. I do not remember that.

Att. Gen. Was there not some debate by what warrant they should act in this Commission and instructions? *Adams.* There were some such words at the meeting.

L. Pres. What did Mr. Love say? *Adams.* I cannot remember what Mr. Love did say, or whether he said anything or nothing at that time, but that there were such words said, I have said it, but by whom, I cannot fix it upon any particular person.

Att. Gen. Was it not debated by what warrant they should derive power to themselves to send this Commission? *Adams.* There was such language, but by whom, I cannot say. I think by William Drake.

It was because the King had writ this letter, wherein he desired where should be such instructions; there was something spoken of the secluded members, but by whom, I do not know; there was a Proposition whether the authority should be taken from the secluded Members, or from some other. *Att. Gen.* Did not Mr. Love then say, Come, let it go on. *Ad.* I dare not say so.

Att. Gen. Was it not propounded at the meeting to write to the Queen, and to *Germine*, and *Piercy*, for them to mediate with the King to agree with the Scots.

Adams's Examination was here again read.

Adams. My Lord, So much of this, as I think to be true, I shall own.

Att. Gen. Was there not a letter writ from *Piercy*, that a considerable summe of money was fit to be sent to the King, and what answer was given; was it not to be done till the King and Scots should agree, and then to raise the money? *Adams.* That there was such a letter writ, I must needs acknowledge.

Att. Gen. Where was it read? at Mr. Love's house? *Adams.* No certainly, I only saw it in Major's own hands, and I remember he shewed it me.

Att. Gen. Next ask him whether there was not a letter written about August last to some here, that Massey had back friends in Scotland, complaining he could not be promoted there? *Adams.* I did understand there was such a letter, but by what way, I do not know.

Att. Gen. Was not the letter communicated at M. Love's house, and were not you present when this letter was read at Mr. Love's house, wherein Massey complained he had back friends in Scotland? *Ad.* No certainly, that letter was not to my remembrance read there, I heard of such a letter, but saw it not.

Att. Gen. My Lord, ask him whether he was not appointed to draw up some letters. *Ad.* There were some-I should have had a hand in drawing. *Att. Gen.* Who were appointed with you. *Ad.* As I remember, Captain Potter, Captain Massey, and Mr. Gibbons.

Att. Gen. But was there no meeting upon it, was M. Love named? *Adams.* Mr. Love was not named. *Att. Gen.* Was there not one *Sierks* a Scotch Agent here, that kept intelligence from Scotland? *Adams.* I know, there was such a one, we took to be an Agent here.

L. Pres. Did he meet at your meetings? *Ad.* Yes, he did meet sometimes. *Att. Gen.* Was he at Mr. Love's house at any time? *Ad.* That he was.

Att. Gen. When the Act came forth for banishing the Scots, was there not a collection for his charges, and were not you at M. Love's house when it was agreed to? *Adams.* I was not.

Att. Gen. Did you contribute money? *Adams.* I did contribute 10 or 12s. I cannot tell which.

Att. Gen. What discourse upon Dunbar fight was there from this person that is already spoken of?

Adams. This is the thing, if you please to help my memory; for there were so many particulars in this correspondence, that I cannot tell whereabouts it is. I am to speak to, I am very uncertain whereabouts it is, I am to speak to. *L. Pres.* Speak the certainty as it was in your breast. *Ad.* My Lord, if it be doubtfull to me, how can I be certain, and charge it upon my memory?

L. Pres. Speak the truth? *Adams.* I will speak the truth. *L. Pres.* Do so then? *Here again Adams looks upon his Examinations.*

Adams. There is some of it I did set down, that I dare not own upon my oath, I then did deliver it so when I set it down.

At. Gen.

Att. Gen. Did Mr. Love know that this Scotch man was the Scotch Agent? did you not take notice that Mr. Love took notice of him? *Adams.* I do think he did, as farre as I understand, he did.

Att. Gen. Did not Mr. Love generally tell you the cause of the meetings? *Adams.* No Sir.

Att. Gen. Did you not hear Mr. Love say, that this *Sierks* was the Scotch Agent? *Adams.* I never heard Mr. Love say so, but I knew this, that by our usuall meetings Mr. Love did understand him as I did, to be the Scotch Agent.

Att. Gen. How often did you meet at Mr. Loves house? *Adams.* I cannot tell, it may be seven, or eight, or ten times; an uncertain time.

Att. Gen. He was at Mr. Loves study? *Adams.* Whether so many times, I know not.

Att. Gen. My Lord, ask him whether it was not at Mr. Loves study when mony was propounded to be raised for *Massey*, and *Titus*. *L. Pres.* Was that in Mr. Loves study? *Ad.* I cannot tell. whether it was in his study, or in the lower room, I am apt to believe it was in the lower room.

Att. Gen. Was Mr. Love there? *Adams.* Certainly, he was there.

L. Pres. What was the contents of the letter? *Adams.* The contents of the letter I cannot remember.

Att. Gen. Whether did it not declare the poverty of his condition? And was it not after *Dunbar* fight? *Adams.* Yes, it was.

Att. Gen. Was this letter from *Massey*, read at Master Loves house, was this for money? *Ad.* It was.

L. Pres. Was it agreed for money to bee raised? *Adams.* If you take the word *agreed*, as I formerly propounded, it was so.

Att. Gen. How was the money to be raised, and in what manner? *Adams.* It was by those that were privy to the contribution.

Att. Gen. Was not Mr. Love there, and did not he write down the sums that were to be contributed? *Adams.* This I must needs say, that Master Love had papers in his hand, and hee did write something, but I did not see what he did write, and every man did write that was there.

Att. Gen. Did not you conceive so, that Mr. Love summed up every mans sum? did he put the letters of their names before them, when he writ the sums? *Adams.* I cannot say that.

Att. Gen. Was not there a letter penn'd by Master Love, and Doctor *Drake*? *Ad.* To that question, I must say there was a letter, but I cannot deliver it upon my oath that it was penn'd by Master Love, or Doctor *Drake*, but it was taken to be so, and I thought it was so.

Att. Gen. To whom was that letter directed? *Adams.* I cannot tell to whom.

Att. Gen. To whom was it declared to be directed? to whom was it declared to be written?

Adams. To the Generall Assembly and Kirk of Scotland.

L. Pres. Was this at Mr. Loves house too? *Adams.* It was so.

Att. Gen. Was Mr. Love present, and did approve of it? *Adams.* Mr. Love was present at some time of this meeting: the reason why I thought it to be of Master Loves, or Doctor *Drakes* drawing, was nothing but, meerly the language of it, it being in order to promote the ends of the Covenant, and all the whole language was couched to that purpose, and taking notice of the want of respect to *Massey*, and the *English*, and of their being beaten.

Att. Gen. My Lord, This is very high; for he tels you this letter was approved of, and directed to be sent, and this was after *Dunbar* fight, after we were engaged in bloud.

Here Adams read out of his Examination, as followeth: *Adams.* There was also a large letter in the nature of a Declaration penn'd by Master Love, and Doctor *Drake*, and approved of by most of the Presbyterian party, Ministers, and other, and directed to the Generall Assembly, and Kirk of Scotland, subscribed by none, which contained the substance of what was declared by *Titus*, and *Massey*, but durst not promise any great sums of money till they appeared more considerable, and grew nearer action; the businesse required higher spirits then was for the present, and the businesse required a considerable summe: but to leave no means un-attempted when the businesse was feasible.

So far he reads.

Att. Gen. Major Adams is now upon his oath to tell you. *Adams.* My Lord, As well as I remember, it did put forth much after this sort, but I cannot swear it in these words, but that is the substance of it.

Att. Gen. Was not this agreed and declared at Mr. Loves house, that such a letter should be written to the Honourable Committee, and to the Kirk. *Ad.* I answer, that after the same manner as all other things are agreed at such meetings as this is, but I have no ground, and do not know why I should say Master Love and Doctor *Drake* penn'd it.

Att. Gen.

Att. Gen. Ask him for the substance of the letter, whether it were not as he hath told you, and whether he did not say, they could not promise a considerable sum of money. *Adams.* Certainly, either in that letter, or some other, there was some such expressions.

L. Pres. V Vell, it was about that time, and in that letter, or in some other letter, and at *M. Loves* house. *Att. Gen.* My Lord, Ask him if there was not an Agent come from *Scotland*, and a way laid at *Kendall* for a correspondence between these Gentlemen here, and some of *Scotland*, and whether one *Groves* was not sent thither? *Adams.* That was something obscure; that there was such a thing, I do verily believe, because it went amongst us for a truth, but how to make it out for a truth upon my oath, I cannot tell. *L. Pres.* Did *Mr. Love* know of it? *Adams.* I do not know.

Att. Gen. Ask him what he knows concerning Colonel *Bamfield's* man coming hither? *Adams.* Concerning that I know nothing, but I confesse I had some Item, that at that time there was something found; and this is all I can say to that, I cannot guess the time.

Att. Gen. Was it after the fight at *Dunbar*? *Adams.* Yes, that it was.

Att. Gen. Were the meetings at *Mr. Loves* house? *Adams.* I cannot say all, but all that I know of, were.

Att. Gen. Ask whether upon the large letter, *Masse* did not write that things were well settled in *Scotland*? *Adams.* Many of these things were understood so, and taken for granted amongst us, but I can say no otherwise, I thought it to be so; but I know not.

Att. Gen. Were you not present, or at *Mr. Loves* house, when these letters were read, that they were in a hopeful condition? *Adams.* I cannot say so. *L. Pres.* What can you say? *Adams.* As before, That it went for a truth amongst us, and that is as much as I can say to it.

Att. Gen. Was there not a large letter inviting your friends to union? *Adams.* I understand the other letter to be this you propound to me now. *Att. Gen.* Now we speak of a letter from Alderman *Bunce*, and others? *Adams.* I cannot speak particularly to that; for I did not see them, but they were told me by one or other of those that were of the correspondence, and this is all I can say. *L. Pres.* What is the truth? Do you conceive it is so?

Att. Gen. My Lord, we shall not trouble him with that, my Lord. Ask him one question more, What did *Mr. Love* tell you, that if the Presbyterians got the upper hand again? *Adams.* Those words, I think, did but amount to this, that if the Presbyterians were in arms again, by the blessing of God, the Cavaliering party might be prevented from getting the day.

L. Pres. Who do you mean by the Correspondents? *Adams.* By correspondents I mean *Alford*, *Poster*, *Far*, &c. *L. Pres.* Was not *Mr. Love* one of them? *Adams.* I took him to be so, my Lord.

Mr. Love. My Lord, I pray ask him, whether any of these pretended or supposed letters, were ever received by me, any one of them, or that I write one of them, or mended one of them. *Adams.* I cannot say that ever I saw him do any such thing, nor did I ever see him write any.

L. Pres. But you saw the letters there? *Adams.* That I have said.

Mr. Love. Ask him whether I gave my consent to the sending away of this he calls a commission, and instructions, about the time of the Treaty at *Breda*. *Adams.* No, I will not swear that,

and upon my oath I cannot. *L. Pres.* Will you not, I will press you to nothing, you said even now, you did not know he did send them away, but you did say, he was privy to them, and to the debates of them: did he declare any dissent? *Adams.* I cannot say that.

M. Love. Will you ask him this question? Whether he read the letters that he pretends were sent into *England*, or *Scotland*, or whether he heard them read?

L. Pres. That he swears? *Adams.* I did not swear that these were the contents of them exactly. I was there when these letters were read.

Mr. Love. He only heard them read. *L. Pres.* If there were halfe a score that had correspondence, and received letters, and come together, and one of the most confiding men read them, will any man say, that he will not believe they were right read, such a hear-say as this, is such a hear-say as you may take notice of. *M. Love.* But let him prove how it was a correspondence on my part.

Adams. I did not say that *Mr. Love* was one of the Correspondents, I deny that I said so, I said I conceived him to be so, but that is not, that he was so.

L. Pres. They did debate together, and met together, and received instructions, and therefore he may very aptly conceive he was a Correspondent?

Mr. Love. Dost he swear that J assented? *Adams.* J did not swear so?

Mr. Love. He saith, money was sent to *Tissu*, pray ask him whether by Agents J employed?

Adams.

Adams. I cannot say so.

Mr. Love. Here is no proof at all, that ever I received Letter, or Writ or sent any Letter: Pray ask him if I knew before they came to my house, that they would bring such letters with them. Do you swear that I was present in the room at the time that the letters after the defeat at Dunbar were sent, wherein there was, as you say, a promise of assistance? Adams. You were there some part of the while.

Mr. Love. Ask him whether he was not threatned with death, in case he would not, and promised favour in case he would bring in evidence against me. Adams. I cannot say I was threatned with death to that end.

Mr. Love. I shall bring a witnesse that shall prove from his own mouth, that he hath confest, if hee did not bring in evidence against me, he should be hanged.

Adams. It is true. Percival did come to me, and I did say to him, that upon my examination, I did say, if I were not ingenuous, I was threatned to be hanged.

Att. Gen. When a man is a Traytour and doth confesse, he deserves mercy.

Mr. Love. Ask him whether he hath not received money to give in this information against me.

Adams. I have not.

Mr. Love. Did not some messenger come to you, some months since, from some members of the Councell of State, and told you, you were poor, and should be ruined if you did not confesse it? he had three messengers sent unto him from the Councell of State, or some of them, that told him, if he would not confesse he should be ruined.

Att. Gen. Did you receive money, or were there promises made to you to testifie against Mr. Love?

Adams. Upon my oath I did not.

Mr. Love. Hath he never come to Mr. Scot's chamber? did he not come a month before I was committed, being brought there by Major Cobbet; and whether he hath not received money from Major Cobbet, I desire that Major Cobbet may be called upon his oath, to know whether he hath not given him money to bring in information against me; for he hath taken notice of all Facts, and of all things done, and hath brought all to Mr. Scot: I know, by information, that this Adams is a hired witnesse. Sir, this man is a *Tobish* and a *Samball*; some men have hired this man against me, I desire Major Cobbet may be called.

L. Pres. He did, and might do it; but did he it to testifie against Mr. Love? I hope a State that watches the Nation, may watch for the safety of a Nation.

Mr. Cobbet a Major of the Army is called into the Court and is sworn.

Mr. Love. Pray ask him whether he hath not at any time within this three months, given any money to Major Adams, to acquaint Mr. Scot or the Councell of State with this designe, as 'tis called.

Maj. Cobb. My Lord, I must, and do deny that which this Gentleman doth aver, and truly I wonder at his boldnesse in the presence of this Honourable Court; I do know Major Adams, and have known him a long while, and commiserating him as being a prisoner, I lent him ten pounds, but for no consideration that he should betray Mr. Love, or any man: I paid the money to his wife.

Mr. Love. He paid it, he saith, how then did he lend it? and he paid it to his wife, that was to cover the bribery; but did not you discover to this man, if he would reveal it to Mr. Scot, what recompence he should have of him? Did not you walking in the fields with him, desire him to reveal what he knew, and promised him if he did, he should be a man preferred.

Maj. Cobb. I have been acquainted with Major Adams this four or five years, and met with him in the behalf of the Presbyters; understanding there was something was driven on dangerous to the Common-wealth: and I thought I was bound in duty to requite them, if it were possible, for their pains of discovery; and I laboured with him that he would deal so honestly with himself, and the Common-wealth, as to let the Common-wealth know, what he did know of this designe: accordingly he gave me some notice; and I said to him, Major Adams, If I find you ingenuous, if there be any thing that I can do for you, I shall be ready to serve you by night and by day.

Mr. Love. It appears then that the ten pounds was not lent to Major Adams, but was paid him for his discovery; so that 'tis clear he is a hired witnesse; and have you not brought him to Mr. Scot's chamber with promises of preferment? No answer to that question.

The Lieutenant of the Tower is commanded so wisdome his Prisoner, and the Court adjourns till to morrow.

The

The second dayes proceedings, July the 21. 1651.

The Court being sate, Col. West Lieutenant of the Tower was commanded to bring forth his Prisoner, and Mr. Love was brought to the Bar.

M After Jaquel was called into the Court, and the Clerk tenderd him his oath, And M. Jaquel spake to the Court to this purpose,

That there were many oaths abroad, and he could not tell what to say to them, and he desired to be excused. The L. Pres. told him that he could not be excused. *M. Jaquel* said, he was a Prisoner accused of the same offences that *M. Love* was accused of, and that he conceived he was not a competent witness against him: the Court again prest him to take his oath. *Mr. Jaquel* said, that he durst not in conscience swear against *Mr. Love*, and therefore desired it might not be prest upon him: The Court still persisted in it, that he must take his oath, and witness what he knew; he answered, hee would speak the truth of what he knew, as well as if he was under an oath: The Court told him, that that could not be, for if he did not swear, what he should say, could not be received as anything in matter of evidence. *M. Jaquel* still persisted in his refusall; when the Court saw he could not be otherwise prevailed with, they fined him five hundred pounds for refusing to swear; and *Mr. Jaquel* after he was withdrawn out of the Court, was called in again, and prest to take his oath, and was told that the Court had fined him five hundred pounds for refusing to swear, and again asked him whether he would swear. *M. Jaquel* then, when the oath was read to him, did not swear in that manner as the other witnesses did, but only put his hand to his buttons, and when *Mr. Love* asked him whether he was under an oath, he answered that he was as good as under an oath: but the Court not being satisfied with that answer, prest him further, and then hee did say, he was sworn, and was under an oath.

L. Pres. Declare now what you know of this businesse.

Mr. Jaquel. My Lord, for the paper I was examined about, as for knowing *Titus*, I never saw him in my life but one quarter of an hour in a private house, and I knew nothing of his businesse any where. For the other, *Alford* coming over with letters, I was at *Mr. Loves* house, and when I was there, there was severall men there.

Att. Gen. In what part of *Mr. Loves* house. *Jaquel.* I conceive in his chamber, for I went up to severall that were there, whose names I can positively say, for two or three of them, though I cannot remember the other absolutely, though I conceive most I have named in my examination were there; *C. Potter* was there, and *Doctor Drake*, and *M. Alford*, and *M. Love* was there sometimes, though divers times he went out, some coming to speak with him.

Att. Gen. Was there not a copy of a letter said to be sent from the King, read there? *Mr. Jaquel.* I remember no such thing.

Att. Gen. Was there not a narrative. *Jaquel.* Yes, from *Titus*, wherein he declared the Kings inclinations to make peace with the *Scots*; but that his wicked counsell about him did hinder it.

Att. Gen. Was not this of what *Titus* had related from *Fersey*, the narrative of what had past between him and the King there? *Jaquel.* I think it was.

Att. Gen. Was not *M. Alford* sent to receive an account from him to *Calice*? *Jaquel.* *William Drake* did tell me so afterwards.

Att. Gen. Did *M. Alford* deliver no account there? *Jaquel.* I think it was *M. Alford* read the narrative.

Att. Gen. Did he make no relation by word of mouth? *Jaquel.* Truly, I cannot remember.

Att. Gen. You cannot remember it was read? *Jaquel.* Yes, I am sure it was read, and at *Mr. Loves* house.

Att. Gen. And he was present sometimes. *Jaquel.* Yes, sometimes.

Att. Gen. What money was there agreed upon to be provided for *Titus*?

Jaquel. I know of none. It was moved by *Captain Potter* that there might be forty pounds, but I know of none, nor was it agreed by *M. Love*, *M. Drake* or my self, that we should lay down any at all.

Att. Gen. Did you not meet with *William Drake*, and desire to go along with him to see *Titus*? *Iaquel.* I did so, but I think *Drake* desired it. I met him in *Newgate* market, and, faith he, I am going to see *Titus*, goe along with me; I said, I never saw him, nor did I know him: sayes he, You shall not stay at all: whereupon we went and found him in a Cheese-mongers house in *New-gate* market.

Att. Gen. What discourse had you? *Iaquel.* He said, he was newly come out of *Holland*, and he had been with the King, and he was a man of excellent parts for his years, and that he was inclinable to what was good, but that he had such desperate evill Counsell about him; and that hee did much pity him, and that his Clergie especially was wicked; and he propounded nothing to us, nor did I ever see his face afterwards, and this is about two years and a halfe ago; and for any other meetings at the *Swan Taverne*, or for any Agents, I never met him, or saw him.

Att. Gen. Doe you not remember at any meeting, that there was money propounded for Captaine *Titus*, or for *Alford* being sent over to *Calice*? Speak what you know of that, and by whom it was told you? *Iaquel.* Major *Alford* himselfe told me he was to meet his son, and he went over upon that score; but after he was gone, *William Drake* told me he was gone to see or meet Captaine *Titus*, I am not certaine of the words; and when he did come againe, which was the next time I heard of him, then *William Drake* comes to me, and desired mee to goe along with him, for I think he went up and down to every man.

Att. Gen. You thinke then that *William Drake* was the prime man.

Iaquel. Yes, hee was the Actor and the Agent that moved all.

Att. Gen. When *Alford* returned, he desired you to go with him.

Iaquel. To Mr. *Loves* house.

Att. Gen. VWhat was done at Mr. *Loves* house? *Iaquel.* There were some papers read, which *Alford*, as I take it, read, or *William Drake*, I am not certaine which; but read it was, of a relation, that *Titus* came out of *Ierly*, and had seen the King there, and the *Scotts* Commissioners, and that the King had a great inclination to agree with the *Scotts* Commissioners, and that he was a man of excellent inclinations and parts, and had a great desire to agree, but his Counsell, and wicked crew about him would not let him; and he said, as I remember, that the King was a kind of a Prisoner with them there, and said, his Counsell did binder him, or else, if he were from them, hee would agree with the *Scotts* Commissioners.

Att. Gen. You say, this paper was read; this Narrative was read, and in Mr. *Loves* house; was not Mr. *Love* present? *Iaquel.* I am not able to say hee was, when I came in, I remember he was not in the roome, and he was there two or three times while I was there, but he was severall times called out.

Att. Gen. Doe not you know there was an agreement of a letter written back to *Titus*?

Iaquel. I can remember no such thing, but I think *William Drake* told me so, as I remember, but that was two years ago, I do verily believe by what I conceived, was of his writing.

L. Pres. I could wish that mens consciences could not be scrupled to believe so much of a Minister, more then of a Magistrate; I hold it pernicious doctrine for any man to think he is bound more to obey the Minister, then the Magistrate: I ask you then before the Magistrate here, who was present at that meeting? *Iaquel.* *William Drake*. I am sure, and Major *Alford* was there, and Captain *Porter*, and severall others, as I remember, Master *Ienhyms*.

Att. Gen. This was in Mr. *Loves* house, was it not in his study?

Iaquel. I cannot tell that,

I say, as I conceive, that Master *Ienhyms*, and Master *Cafe* were there, but positively I cannot say it, and Mr. *Lackson*, and Mr. *Nalton*, I think.

Att. Gen. VWhat say you of Mr. *Watson*? *Iaquel.* I think he was there.

Att. Gen. What say you of Mr. *Herring*? *Iaquel.* I think he was.

Att. Gen. VWhat say you of Mr. *Cauton*? *Iaquel.* In truth, I cannot tell.

Att. Gen. VWhat say you of Mr. *Robinson*? *Iaquel.* I think he was.

Att. Gen. What say you of Mr. *Drake*? *Iaquel.* Yes.

Att. Gen. VWas Colonel *Vaughan* there? *Iaquel.* Yes, I conceive he was there.

Att. Gen. Was Master *Lackson* there? *Iaquel.* Yes. *Att. Gen.* Was Capt. *Fay*, and Capt. *Porter* there? *Iaquel.* I believe so. *Att. Gen.* Was Mr. *Gibbons* there? *Iaquel.* I cannot tell.

Att. Gen. What say you of Mr. *Sterks*? *Iaquel.* No Sir, I do not know it.

Att. Did you not know him to be the *Scotts* Agent? Was he not taken among you to be an Agent from *Scotland*? *Iaquel.* Yes, he was a *Scotts* man.

At. Gen. And for contribution of money, what money did you pay, and to whom? *Jaquel.* Two five pounds to Mr. Drake.

At. Gen. For what use? *Jaquel.* For charitable uses.

At. Gen. Then he asked it of you so, or for that purpose; but afterwards, What did you learn it was employed about? *Jaquel.* Sir, he did not tell me how he did employ this money; but afterwards, I heard him say, that he had sent *Titus* money.

At. Gen. What did you contribute to *Sierks* his going into Scotland? *Jaquel.* Ten shillings.

At. Gen. And who else did contribute, that was there? and how much was the sum that was collected? *Jaquel.* I cannot tell.

At. Gen. How much do you guess, or have heard? *Jaquel.* Four or five pounds, I think.

At. Gen. Ask him who gave the Scotchmen money. *Jaquel.* Truly, I did give several Scotchmen money, both to poor Ministers and others, that were banished by the A&S, because I knew they were very poor, and knew not how to get away; and I did it out of charity towards them.

L. Pres. Because the State had an ill opinion of them, therefore you had a good opinion of them. *Jaquel.* There was one Minister that had twelve children that was banished.

At. Gen. Were you at any meetings at Mr. *Loves* after Dunbar fight? *Jaquel.* No not I.

At. Gen. At what Fast were you at, and who officiated at those Fasts? *Jaquel.* I was at Major *Adams*, and Colonel *Bartons*.

At. Gen. Who did exercise at those Fasts? was Mr. *Lowe*, Mr. *Jenkyns*, Mr. *Cafe*, any of them? *Jaquel.* I believe they were, I conceive so, I profess I cannot remember, I believe Mr. *Jenkyns* was there.

At. Gen. Was not Mr. *Lowe* one of them? *Jaquel.* Yes, he was.

At. Gen. What was the occasion of those Fasts? *Jaquel.* I know no particular occasion, but for the good of the two Nations.

At. Gen. How do you know they were for the good of the two Nations? was it not for an agreement between the King, and the Scots? *Jaquel.* I confess, it was for the good of both Nations, as both Nations are the Church of God; and do both profess themselves Protestants, and of one Religion; and I conceived, it was my duty to pray for the good of them both.

At. Gen. But was there not some expressions for a blessing upon the Treaty at *Breda*? *Jaquel.* I cannot remember such expressions; for in such duties, I desire to have my heart lifted up unto God: And, my Lord, it is a great while ago.

L. Pres. Will you say your heart is lifted up unto God, when your understanding is in your heels? *Jaquel.* My Lord, I do not remember one passage in prayer a week after.

At. Gen. That is in ordinary meetings, but this was for both Nations; but by what did you know, that this was for the good of both Nations, and why was it pretended to be for the good of both? and, my Lord, why they should not meet before, but just at that time, and at a private Fast? *Jaquel.* I think that since the Nations of England and Scotland were at odds, I have been at twenty Fasts.

At. Gen. My Lord, ask him, whether he were not late with *Potter*, and did not meet with him about Letters from *Banfield*, and whither they went to read them? *Jaquel.* This was about February or March last, he told me he received Letters, and desired me to go along with him to Mr. *Loves*, and after Dr. *Drake* came in, and then these Letters were read; and I profess, I know not from whence they came, nor the man; and so did Mr. *Lowe* declare, That he never saw, nor knew, nor heard of *Banfield* before.

At. Gen. Did he not make mention of Parties in Scotland, that one party was for the King, another for the King and Kirk, a third neither for King, nor Kirk? *Jaquel.* Yes.

At. Gen. But who were those he named, that were men for the King? *Jaquel.* I think, *Hamilton* and his party.

At. Gen. And who for the King and Kirk? *Jaquel.* *Argile* and *Lesbly*.

At. Gen. And who neither for King nor Kirk? *Jaquel.* *Straughan* and *Car*.

At. Gen. What did he tell you of the young Kings escaping? *Jaquel.* Something there was in that, but he was fetched back again.

At. Gen. What said he of *Argile*? *Jaquel.* Nothing at all, as I remember.

At. Gen. Was there not an expression, That they were now agreed to receive in the whole Nation, unless it were those that were notoriously scandalous and excommunicated? *Jaquel.* I believe there was.

At. Gen. Did it not mention five thousand pounds for providing of shipping? Jaquel. Yes; in the Narrative or Letter, whether there related at that time, I know not.

At. Gen. And what mention was there made, who were fit to command in England, if that party should come from thence into England? Jaquel. I conceive there was three Noblemen.

At. Gen. Name them. Jaquel. My Lord of Suffolk, my Lord of Warwick, and my Lord of Manchester, or either of them.

At. Gen. That was prebounced by Bamfield, but I hope those Lords were more noble, then to do any such thing: Was there not another Letter that came with that of Bamfields, sent by my Lord of Argyle, and it was onely, That there should be an approbation of him: And was this Letter likewise read at the same time, and at the same place? Jaquel. Yes, my Lord.

At. Gen. What was then propounded for money to be raised for Bamfield? Jaquel. Truly, Captain Potter did make mention for Forty pounds to be raised, Ten pounds for Colonel Bamfields man, and thirty pounds for Bamfield himself; but that business at the reading was wholly declined, and absolutely refused by all, to act any thing in that relation, in which it was sent over; whereupon, Captain Potter did move, that if nothing were done in that, whether it were not convenient to send the Messenger something to bear his charges; says he, If you will pay the messenger Ten pounds, and lend Bamfield Thirty pounds, I will give the messenger the Ten pounds; but there was no Agreement, nor Conclusion, I know of, no Bill of Exchange that was sent, but Captain Potter said, he would lay down Ten pounds.

At. Gen. But no body spake against Captain Potters laying down of Ten pounds; and it was propounded to you to lend Ten pounds, and you said you would consider of it; but did Potter lend it? Jaquel. I cannot tell that, my Lord, he said he would do it.

At. Gen. my Lord, let now Master Jaquel tell you what was the cause, why they did refuse to do any thing in the Letter about Five thousand pounds; what was the cause upon the debate between you at Mr. Loves house? why you did refuse to do any thing about the Five thousand pounds? Jaquel. The debate was soon over; for we absolutely refused it, we would not meddle in it, not liking the business; it was a trouble, I am confident, to them that heard it read.

At. Gen. You do not remember, that ever any body did acquaint the Magistrate with the design in working from Scotland? Jaquel. No, nor I.

At. Gen. Did not some say, That Bamfield was a malignant? Jaquel. I cannot tell, but I never heard of him before.

At. Gen. Were you not told he was a Cavalier, and of the Kings side, and that that was the true reason, why they would not trust him? Jaquel. I do not remember any such thing.

At. Gen. Did Mr. Love agree for Ten pounds for Bamfields man, and Thirty pounds for Bamfield? Jaquel. No, I cannot say so.

At. Gen. Did not Major Atford tell you upon his return from Calice, that he was sent thither to take an account thence? Jaquel. He did not, but William Drake did tell me, that he was gone to Calice to speak with Captain Tism.

At. Gen. And to take an account of the transaction at Jersey? Jaquel. Truly Sir, I cannot say that, but William Drake told me, he was gone thither to speak with Tism; and this is above two years ago, that William Drake told me so.

At. Gen. To what end? Jaquel. To tell and hear news.

At. Gen. What did he do more? Jaquel. I profess in the presence of God, I cannot tell Sir, I beseech you; for in the Paper I told you before, there were some circumstances, and something that I cannot say; but it was to this purpose, To speak with Tism, to hear the news from Jersey; but I cannot say certainly that word.

At. Gen. We do not press you to the word, but to the effect of it; my Lord, I think Mr. Jaquel hath given an account already, that this relation was at Mr. Loves house. Mr. Jaquel, let me bring one thing to your remembrance, if it be true, At your meeting at Mr. Loves house, upon this business of Bamfields Narrative, you say, Thirty pounds was moved to be sent to Bamfield, and Ten pounds to his man. Jaquel. Yes; by Captain Potter.

At. Gen. And when it was then said, it was thought fit by Mr. Love, Mr. Drake, and Captain Potter, that it should be so done; whether did you not all agree that it should be so done? Jaquel. No, there was no agreement, but it was thought convenient, or to that purpose.

Att. Gen. It was thought convenient by all the company present? *Jaquel.* Truly Sir, there was not much regard taken in that businesse, nor was there much done; for we did not stay long, but there were such words.

Att. Gen. But by all present? *Jaquel.* Yes, there were such words.

Att. Gen. Whether were not some friends at dinner at Dowgate, and was not Mason there?

Jaquel. My Lord, There was a Gentleman there, I cannot say, who he was, nor did I see him before or since.

Att. Gen. Who did they tell you it was? did they not tell you, Mason? *Jaquel.* I professe, I cannot remember that, nor can I tell, but I conceive it was so.

Att. Gen. In your Examination, you say it was Mason. *Jaquel.* I said, I conceived so.

Att. Gen. Why did you believe so? *Jaquel.* I cannot tell, but as I remember, William Drake told me, It was so.

Att. Gen. Whether when Bamfield's letter came, and the letters from my Lord of Argile, London, and others came, Was there not a letter from Baily? *Jaquel.* I do not remember, my Lord.

Att. Gen. Nor from the Generall Assembly? *Jaquel.* I do not remember any such thing.

Att. Gen. Bethink your self, you are upon your oath, whether he that brought letters from Bamfield, did not bring letters from Baily, and from the Generall Assembly. *Jaquel.* I cannot remember there was any such thing spoken of there.

Att. Gen. Was there no expression of letters of thanks for the good affection of the Presbyterian party here, and encouragement to persevere? *Jaquel.* I do not remember any such thing.

Att. Gen. Was there no promises, that when they by their indeavours should get a free Parliament in England, that they would re-imburse all that was laid out? *Jaquel.* I do remember no such thing.

Mr. Love. I would ask him some questions; and the first is, whether he hath spoken this as a meer relation, or whether he owns all this he hath spoken, as under an oath.

Att. Gen. We are past that my Lord, he did say, he was under an oath.

Mr. Love. If he say so, I am concluded. *Mr. Jaquel made no answer to this.*

L. Pres. You have asked two questions in a few words: for the first, whether he speak it under an oath; you know, that time was spent to declare it before he began: If you ask of his owne knowledge, you mistook it; for he saith something he hath by relation, and some that he knows: this hee hath taken notice of, what should wee further examine over the same thing; for hee saith some of his own knowledge, some by relation from particular parties, and some from parties hee calls not now to mind: and it was declared by the Court, that he was a witnesse, and the Court accepted him.

Mr. Love. I desire your Lordship to ask him this question, whether the supposed Narrative that hee speaks of, that Alsford said he brought over, and read at my house, was read at my house; or onely by Alsford, and so brought over as news? *Jaquel.* In truth, my Lord I cannot tell that.

Mr. Love. He speaks of Sterks a Scotch man, I desire your Lordship to know whether hee knows, or can affirme by the oath you say he hath taken, that he was a Scotch Agent. *No answer to that question.*

Mr. Love. Sir, Ask him this question, he mentions a fast at Major Adams, or Col. Bartons, and that for the good of both nations; because he thought they were the Church of God; whether there was any intimation in that meeting, that it was under this notion, for the good of both Nations; whether that meeting was for the Scotch Nation to invade the English Nation. *No answer to that question.*

Mr. Love. He said, (if I have taken him rightly, and if not, I desire your Notaries to inform me better) that Mr. Love did not agree to such a summe as forty pounds, and afterwards hee said, that all there said, it was convenient. Now I would ask how these two can agree together.

L. Pres. You are right; for the thing of agreement hee disclaimed totally.

Mr. Love. Then I did not agree to it.

L. Pres. No, nor any else.

Mr. Love. But afterwards he sayes, that they did conceive it was convenient; Now, I pray ask him, how he knew that I thought it was convenient? *Jaquel.* I cannot say anything that Mr. Love did say it was convenient; but it was not dissented from, nor spoken against by any, as I remember. *Mr. Jaquel withdraws.*

Col. Barton.

Colonel Barton is called into the Court, and is sworn.

Att. Gen. My Lord, let Colonel Barton tell you what he knows of the meeting at the Swan at Dow-gate.

Col. Barton. My Lord, I was there a little while after the death of the late King; I was going in to Cannon-street, and met with William Drake, he desired me to go with him to the Swan at Dow-gate, I told him I had a little business in Cannon-street, and I would be there by and by: I staid about halfe an hour about my business, and went then to the Swan at Dow-gate, and there was, to my best remembrance (for positively I cannot say) William Drake, and one a stranger, Major Huntington, and Lieutenant Colonel Bains, and there was one Captain Titus, as was said, and Major Alford, and I do not remember who else were there. My Lord, at that time truly I was under a defect in my hearing, and since that I have lost an ear, through a huge hear, and cold taken. But, my Lord, I not coming but to the middle of their discourse they had, and not perfectly hearing, could not well judge of their discourse, but afterwards I asked William Drake, what the intent of the meeting was? he told mee, that their intentions were to make some addressies or applications (some such word it was) unto the Prince, and to take him off from his malignant or evill Counsell about him, and to put him upon such as would be honest and better Counsellors; and this is the substance of what I then understood from Will. Drake. My Lord, I think, two or three dayes afterwards, I know not which, there was a meeting againe at the White Hart in Basing-lane, and at the corner of Bread-street; there were, I think, most of them that I have named at the first meeting; I am sure William Drake was there, and Captain Titus, and Lieutenant Colonel Bains, and Major Huntington, I cannot tell whether Mr. Alford was there or no, but these I am sure were there; I did not come to the beginning of that meeting neither, the Paper had been read before I came in, to my best remembrance; but I asked William Drake what was the meaning of that meeting? he told me, it was to the same effect that they spake of before; and they had thoughts to send some body over to the Prince, to perswade him from that condition; a while after J met with Lieutenant Colonel Bains, and truly, J did ask him more fully of the circumstances of that meeting: he told me something that they intended to make use of my Lord Piercy and Jermin, and those about the Prince, which hee disliked. Truly, my Lord, it troubled me extremely to think that they should make use of such ill instruments to perswade the King, and J said, J thought it was not well: And the next time J said to William Drake, you have not done well, for it is not a christian way we take to make use of such men as these to perswade with the King; for do you think that my Lord Piercy and Jermin, and those men will ever perswade the King to leave themselves, and their own Counsels? so he put me off, and from that time he was a little more shy of me. Afterwards he did secretly and cunningly get from me Ten pounds, and came under a pretence to supply a friend in necessity, and J said to him, you have money of your own; saies he, J have not so much as J must needs supply him with, and he could not do it of himselfe for fear it should be misl'd. My Lord, J asked him what friend it was; nay, saies he, you can not know that, nor you cannot have it till he is in a condition. To tell you truly, he had been a good customer to me both for himself and friends, and J was loath to deny him it, supposing J should have it again. J afterwards did not, to my best knowledge, meddle or make at any meeting, J was never at any of those meetings after the business at Basing-lane, because J disliked them; but afterwards J did suppose that this Ten pounds was for Captain Titus; for J did put it to him, and said, J am afraid you did furnish Titus with that Ten pounds: What then, said he? Then J shall require it again of you: so he put me off, and run out of the Land. My Lord, for any other meetings, transactions or knowledge of any other thing from the time of the meeting in Basing-lane, J know none. For the Prisoner at the bar, truly J do not remember, and J am confident J was never at his house in my life, nor changed one word with him.

At. Gen. Did you meet with Titus in Fleet-street. *Bart.* J did, my Lord, and J asked him whether the King that was dead (for J knew he was much about the King, because J had heard it) and J asked him (J say) whether the King was a man of those parts he was reported to be. Titus told me, not only of his parts, but vertues: Truly J suspected then, that Titus was not the man he seemed to be, and J feared he was a Cavileer in his heart; and truly that did occasion me, with the dislike of others, to leave their company.

At. Gen. There were sometimes private saits at your house, what was the occasion of them, and who spoke to you for them?

Col. Barton.

Col. Barton. My Lord, I do not remember the party that spoke to me, I am not certain whether it were Master *Pickars*, but cannot positively say it; or whether it were by Sir *Matthew Brand*, or by whom they desired to meet, they met in a room at my house to humble themselves before the Lord; and I cannot say anything of the Fast, because I had customers, and I did think I was bound to serve my calling; and I was not there above half an hour, and it was up and down, off and on, there were divers Ministers, who did exercise at that time.

Ass. Gen. Who did exercise at that time? Col. Barton. I was not there much of the time, but I think Mr. *Jenkins*, and to my best remembrance, Mr. *Love* was there; there was Mr. *Tate* the Parliament man, to my best remembrance; I think Mr. *Jaquel* was there, and there was Sir *Matthew Brand*.

Ass. Gen. What other Ministers were there? Col. Barton. I think Mr. *Cafe*, and to my best remembrance Mr. *Robinson*; but I am not certain.

Ass. Gen. What was the occasion of your Fasts, and at your house? Col. Barton. I knew no occasion, because I was not there, but have heard, a servant of my house, who was there, gives this relation. Mr. *Jenkins* began in this manner, O Lord, thou knowest we are not meet to put up complaints against any, but to humble ourselves before thee, and to pray, that the sins of the Land may be pardoned; but I do not remember there was any word, but for the pardoning the sins of the Nation.

Ass. Gen. Was there no sins named in particular? Col. Barton. My Lord, I do not remember.

Ass. Gen. My Lord, ask him whether any body hath been with him, to call for any money for any parties beyond Sea; for *Masse* or any others. Col. Barton. I shall give you a true Narrative of that, I understood, my Lord, that after the prisoners that were taken at *Dunbar* were come down the River, there were divers Citizens, both men and women, that came to see them, and made a relation of their misery to be such, as I have not heard; and there was one among the rest, that said there was a piece of meat reached down among the prisoners, and two or three catching at it; it fell down among the dung; and they took it up, and eat it; there were divers did move for a contribution to them, and it was a pretty while before I did contribute any thing; there was Captain *Far* with me, and desired me to give him some money, and he did not propose the use; but to my best remembrance, it was either for charitable uses, or for some in misery. Now I was loth to ask him for what charitable use, because I did not desire to be known to give such a sum of money to the Scotch prisoners. I had a little money which I had devoted to charitable uses in my own purpose: When the Parliament granted my Petition for reimbursing the money I lent, I did promise Fifty pounds to charitable uses; and this, I confess, I did intend for the Scotch prisoners, but was loth to ask him, because I would not be thought charitable to your Enemies; but did it not under that relation.

Ass. Gen. Mr. *Jaquel*, you know *William Drake* and Mr. *Love* very well, do you not know that Mr. *Drake* and Mr. *Love*, were very familiarly acquainted?

Jaquel. I must needs say, Mr. *Drake* would be acquainted with all the Ministers in London; and I cannot say, he was more acquainted with Mr. *Love*, then with any other Minister.

Captain Far is called into the Court, and is sworn.

Ass. Gen. My Lord, let him acquaint you with what passed at the White Hart in *Breadstreet*. Cap. *Far*, I desire the benefit of my Papers.

Ass. Gen. At whose request did you come to the white Hart in *Breadstreet*, and when was it? Cap. *Far*. By *William Drake*.

Ass. Gen. Was that the first time you were acquainted with any thing of this nature, for carrying on and prosecuting of an order, to the fartherance of an Agreement between the Scots, and the King? Cap. *Far*. It was about two years since.

Ass. Gen. VVhat was the discourse at that meeting? Cap. *Far*. It was the drawing up of some heads of a Letter, which might be sent to Scotland.

Ass. Gen. What was the effect of it? Cap. *Far*. It was to this effect, to the best of my memory; for it is so long since. Here *Captain Far* was at a stand, whether through infirmity of speech (for he seemed to be slow of speech) or otherwise, I cannot say; and he or the Attorney General for him, made great use of the Papers of his Examination.

Ass. Gen. To desire them, the better to bring them to an agreement, that there might be moderate Propositions. Cap. *Far*. It was to moderate their desires in the agreement, between the King and the Scots.

Ass. Gen. What to do? Cap. *Far*. That they might abate of their demands.

Ass. Gen. Of their former demands, that they might be the more like to agree; was it not so? Cap. *Far*. Yes, my Lord.

Att.Gen. Was it not propounded likewise, that some should be sent to the King, to perswade him to give satisfaction to the *Scots*? *Far.* It was propounded by *Titus*, but not approved of.

Att.Gen. But did you not agree to send to the *Scots* that you did agree to, and were there not heads which *Titus*, or *Drake*, did undertake to write, and afterwards were drawn up? *Far.* I saw no letters.

Att.Gen. But did not *Drake* tell you he had sent them to Master *Baily* in Scotland? *Captain Far* being at a stand, the *Attorney Generall* asketh him again. Did not *William Drake* tell you, a letter was sent accordingly into Scotland? *Far.* Yes he did tell me, he had sent letters.

Att.Gen. My Lord, let him give you Lordship an account before the Treaty at *Ferfey*, where *Drake* met with him, and what he propounded to him, whether to send to *Ferfey*, and what persons, and upon what message? *Far.* *Mr. Drake* did say, that *Captain Titus* did say, It was requisite for one to be at the Treaty at *Ferfey*, and I had it from *Drake*, that *Titus* did undertake to go himselfe thither.

Att.Gen. What was his employment to be there, and what money was to be raised for him?—Did he tell you he wanted money? *Far.* After *Mr. Drake* desired, I would help him to ten pounds, and *Titus* was in want of money to relieve his necessities; and upon this request I did leave ten pounds in *Mr. Drake's* Ware-house.

V Was *Drake* present? *Far.* I think he was, I was promised it again, but never received it.

Att.Gen. My Lord, Let him inform after this negotiation of *Titus* was ended at *Ierfey*, whether there was not a letter written by *Titus*, and whether this was not read in the presence of *Mr. Love*, and some others, and whether at *Mr. Loves* or no?

L. Pres. Upon the ending of the Treaty at *Ierfey*, and *Bredab*, were you not present at *Mr. Loves* house, when it was signified from *Titus*, that it was not convenient for him to come into *England*, because he thought he was discovered to the Councell of State, and desired some body to be sent to *Calice* to take an account there of his negotiation? *Far.* Yes, my Lord, I was there.

Att.Gen. Where, at *Mr. Loves* house? *Far.* Yes.

Att.Gen. In what part of his house, whether in his chamber, or study? *Far.* In his study, as I remember.

Att.Gen. Was the letter read there, and who read it? *Far.* *William Drake* read it.

At. Gē. What was the substance of the letter, as you remember? *Far.* It was for sending one over to *Calice*.

Att.Gen. Was *Mr. Love* present when this letter was read? *Far.* Yes sure, he was present.

Att.Gen. Was it agreed that one should be sent to *Calice*, to take an account of it. *Far.* It was desired, and I was propounded to go.

Att.Gen. Who named you to go? *Far.* *Mr. Drake*.

Att.Gen. What was the occasion that *Major Alford* did go? *Far.* It was his Sons being there, that was gon from him.

Att.Gen. But then it was agreed that *Alford* should go? When *Alford* did return from *Calice* again, and there was an account given of his employment, Where was this account given? and where were those papers read that did give the account? *Far.* It was given at *Mr. Loves*; but I cannot say, he was present at that, for he was absent sometimes; I cannot be positive to say he was present: I do conceive he was present, but cannot positively say it.

Att.Gen. What was the substance of the account given by *Alford*, or *Drake*, or who read it?

Far. It was a Narrative that he had been at *Calice*, and what entertainment he had.

Att.Gen. V Was there a copie of a letter brought thither written from the King to the Presbyterian party? *Far.* I cannot say, he brought it.

Att.Gen. What was the substance of the letter? *Far.* To send Commissioners to the Treaty at *Bredab*.

Att.Gen. What else was in the letter? Did not the King of *Scots* declare in the letter, that he would give satisfaction to the *Scots*, and in order thereunto he desired Commissioners? *Far.* It is so long since, that I cannot remember it.

Att.Gen. I ask you, whether it were not to this effect, to declare that he was willing to give satisfaction to the *Scots*, and to that end desired the Presbyterian party to send commissioners to *Bredab*?

Mr. Love. This is grosse darknesse, for you to dictate words to him, and then to say, V Was it not thus, or to this effect? and so to put into the mouths of the witnesses what you would have them say.

Att.Gen. V When you go in darknesse, it is grosse treason.

Mr. Love. Eight witnesses have not proved, that I either writ letter, or received letter, or lent money.

Att.Gen. V What was the effect of the letter? *Far.* It is so long since, that I cannot speak particularly, but it was to send commissioners.

Att. Gen.

Att. Gen. The copie of the letter that came from the King by Major *Alford*? *Far.* I do not say so, Sir.

L. Pres. Such a letter as they conceived to be brought from him, as they read.

Att. Gen. What was that? *Far.* That he had been with *Titus*, and did bring the Narrative from him, or to that effect.

Att. Gen. Was it not to be communicated? *Far.* Yes, it was so.

L. Pres. What was the Narrative read from *Titus*? who were present at this meeting? *Far.* There were severall there, but I cannot positively remember any.

Att. Gen. Was Mr. *Love* there? *Far.* I cannot say he was.

L. Pres. Was Doctor *Drake* there? *Far.* I cannot say positively, that he hath been at any meetings.

L. Pres. When you were of this meeting, and Major *Alford* returned this at Mr. *Loves* house, was Doctor *Drake* there? *Far.* I cannot say it.

L. Pres. Was Mr. *Jenkyns* there? *Far.* I cannot say it.

L. Pres. How many were there? *Far.* About ten, or twelve.

Att. Gen. Ask him, whether this meeting, when this letter came from the King, advising to send Commissioners to treat with the King at *Bredab*? Whether was there not a Commission named, and persons named to treat? *Far.* *William Drake* read papers, but it was not agreed upon by the Company, because private persons could not give commissions.

L. Pres. Was it not debated at that meeting for a Commission to be sent accordingly? *Far.* *Wil. Drake* read papers there, that was in the nature of a Commission, but it was not agreed upon by the Company, because private persons could not do such a thing.

L. Pres. Was it not in order to the Treaty? *Far.* It was to advise with them about the Treaty.

Att. Gen. Was it not read in the presence of the Company? *Far.* The Commissions and instructions were read in the presence of the Company, but they were not agreed upon.

Att. Gen. Was it not in the name of the Presbyterian party in England? *Far.* As I do remember, the Commission was in the name of the Presbyterian party, for I did but onely hear it read.

M^r. Love. Let him speak *vivâ voce*. *Far.* To the best of my remembrance, it was for the Presbyterian party, but positively, I cannot say so; My Lord, 'tis two years since, and as near as I can remember, it was so.

L. Pres. The Commission you say, was not agreed to, but the letter and instructions were?

Far. *William Drake* did undertake to draw them up.

L. Pres. Were they drawn up, and sent? *Far.* I am not able to say they were.

L. Pres. Who were to be the Commissioners? *Far.* My Lord *Willoughby* of *Parham*, *Alderman Bunce*, Major General *Massey*, Colonel *Graves*, Captain *Titus*.

Att. Gen. V What were they to do? *Far.* To advise, but not to treat in the behalf of the Presbyterian party. *L. Pres.* Not in the behalf of the Prebyterian party? *Far.* No.

Att. Gen. V Was there not an agreement of letters to be sent to the Queen, and no proposals that way? *Far.* No, my Lord.

L. Pres. What was the substance of that letter read? *Far.* It was, as I remember, to have the Queen perswade the King to give satisfaction to the *Scots* in their just demands.

Att. Gen. Was it not moved then to be debated what power they had to send a Commission, and by what authority they should do it, and by whom was it spoken? *Far.* It was demanded, what authority had private men to send Commissioners?

Att. Gen. Did not you go afterwards with some over into *Sousbmark*? *Far.* Yes.

Att. Gen. Where did you go? *Far.* I went with Major *Alford*, and with *Alderman Bunce* his sonne, and I went to *Gravesend*.

Att. Gen. What other company was there? *Far.* No body else, nor had I gone, but at the request of Master *Alford*.

Att. Gen. Did you know that *Mason* went? *Far.* There was no such man went along with us.

Att. Gen. Did no body tell you that *Mason* went with the instructions agreed upon? *Far.* There was a Gentleman we met with at *Gravesend*, that I conceive to be that *Mason*.

Att. Gen. Did he carry the instructions? *Far.* I cannot tell.

L. Pres. Did no body tell you so? *Far.* Not as I remember, I did not see any delivered to him.

L. Pres. Do you believe he carried them out of these circumstances you heard? *Far.* Yes, I believe he did, I am upon my oath, and to say positively, I cannot.

Att. Gen. Were there not letters left at your house, and for whom, and what did you with them? *Far.* There was at my brothers house letters left, but they were returned.

Att. Gen.

Att. Gen. But for whom were those Letters ? *Far.* They were directed to *William Drake* by *Titus*.

Att. Gen. Were you at Colonel *Bartons* house at the Fast ? *Far.* I was.

Att. Gen. Who officiated there, was *Mr. Love* one of them ? *Far.* I cannot say positively, I believe *Mr. Love* did.

L. Pref. Do you believe, *Mr. Love* was one of them ? *Far.* I conceive he was one of them, and *Mr. Robinson*.

Att. Gen. Did he not pray for a blessing upon the Treaty, between the King and the Scots ? *Far.* That was done, but I cannot say it was by *Mr. Love* ; but these words were said there.

Att. Gen. Were you at a meeting at *Mr. Loves*, after the fight at *Dunbar*, a remarkable time to this Nation ? *Far.* I was there, but came in late.

Att. Gen. Were you there, when a Letter was read from *Massej* ? *Far.* I did not hear it read.

L. Pref. What do you know of it ? *Far.* There was such a Letter came, to assist the King with Money and Arms ; but it was not agreed upon.

L. Pref. Do you swear such a Letter came ? *Far.* I cannot swear positively.

L. Pref. Did the Gentleman tell you so ? *Far.* He did tell me so.

L. Pref. The letter did write likewise for Arms and Ammunition, did it not ? *Far.* Yes, and for money.

L. Pref. Did not *Mr. Love* tell you, they could not do it. *Far.* I did understand it was *Mr. Love*.

Att. Gen. Did not *Mr. Love* tell you, they agreed to raise a sum of money for *Massej*, and *Titus*, and *Graves*, and some of them ? *Far.* Yes, he did.

Att. Gen. What was the sum of money, and for whom was it agreed upon ; did *Mr. Love* tell you so ?

Far. I say *Mr. Love* did tell me, it was agreed upon for the sending of some money, whether 250 or 300 l. I cannot say positively ; and it was to relieve *Massej* and *Titus* in their necessities.

Att. Gen. Did not *Mr. Love* move you to contribute to this ? and what did you contribute ? *Far. Mr. Love* asked me, and I did promise five pounds, and brought five pounds, and laid it down upon his Table.

Att. Gen. Who was in the Room then ? *Far.* There were several.

L. Pref. Do you know none of them ?

Att. Gen. *Mr. Love* saith, he hath neither writ, received, nor sent ; but he doth not say, he did not mend letters. *Far.* I brought five pounds in a Paper, and laid it upon his Table.

L. Pref. And was he in the Room ? *Far.* Yes, my Lord, but I cannot say, any else was.

Att. Gen. I could tell you who there were more ; *Mr. Case* was there too ; my Lord, ask him if it were not agreed between them, that it should be so brought. *Far.* As I did understand it was so ; it was so for my particular, but I cannot say it of others.

Att. Gen. Did not *Mr. Love* speak to you to that purpose, to bring it in that way ? *Far.* I cannot say he bid me lay it down.

L. Pref. What was the manner of *Mr. Loves* requiring of you, or notifying of it to you, and the manner of your pursuit of that ? *Here Captain Far was at a stand, and made no answer.*

Att. Gen. I will make it very short, Whether this were not done, that there might be no discovery of it ? *Far.* It was done to that effect, that there should be no discovery of it, I did it under that notion.

L. Pref. And do you not think *Mr. Love* conceived it under that notion ? *Far.* I cannot say he did.

Att. Gen. Were you not spoken to by *Cap. Massej*, to speak to Colonel *Barton* to lend money ? *Far.* I did speak to him.

L. Pref. What was that ? *Far.* Ten pounds, as I conceived, for I received it from him in a Paper.

Att. Gen. To whom did you deliver it ? *Far.* To *Cap. Massej*, *Massejs* Brother, my Lord.

L. Pref. You received it from *Col. Barton* ; *Cap. Massej* bid you speak to *Col. Barton* for a sum of money, and he gave it to you, and you gave it to *Cap. Massej*.

Att. Gen. Was the money, as you conceived, returned to *Massej* and *Titus* ? *Far.* I cannot say it was.

L. Pref. Do you believe it was desired to be raised to that purpose ; and do you think it was done according to that purpose ? *Far.* I do not know.

Att. Gen. Whether do you conceive, that this money you thus brought to *Cap. Massej*, was not for *Massej* and *Titus* ? *Far.* I do conceive it was.

Att. Gen. And was not *Mr. Love* commonly at your meetings ; and whether, after *Drake* went away, the meetings were not at his house ? *Far.* I met with *Mr. Love* often at his own house.

Att. Gen. This money was taken up under the notion of a charitable use. *Far.* I do conceive it was given them under that notion.

Mr. Love. Sir, He gave you a large account of the negotiation with *Titus*, Pray ask him if I were privy to it. *Far.* I cannot say so. *L. Pres.* Do you believe it?

Mr. Love. You say the copy of the Kings letter (you suppose) that was brought over by *Alford*, was read at my house; whether did I hear the letter read in my house? *Far.* I cannot say you did.

L. Pres. Was not *Mr. Love*, when the letter was communicated, sometimes in the room, going, and coming? *Far.* I cannot say when it was read, but I say he was there during some part of the communication, but I cannot say he was there at the reading of the letter.

Att. Gen. These are good questions, my Lord.

Mr. Love. The Court will judge of that.

L. Pres. But do you not conceive that he understood the contents of it? *Far.* I do conceive so:

Mr. Love. But he doth not say, it was so. He said there was a Narrative read from *Titus*, I desire your Lordship to ask him whether I was present whiles the Narrative was read yea, or no. *Far.* I cannot say anything to that, I cannot swear he was there.

Mr. Love. Ask him whether I did not go often out of the room. *Far.* I did observe that when *Mr. Love* hath been there, he hath been often called away, and hath been absent, and therefore I cannot say such a thing was done when *Mr. Love* was there.

Att. Gen. He hath before prov'd it upon oath, that he was there sometimes.

Mr. Love. But look before, and he said, he could not say I was present when it was read.

Mr. Love. This Narrative, whether was it a copy written by *Alford*, as news brought over, or the copy written by *Titus* himselfe? *Far.* *Alford* said it was a Narrative from *Titus*.

Mr. Love. Pray ask him whether I did send *Alford* over yea or no, or agreed to the sending of him over. *Far.* I think he did not, but he was sent by *William Drake*.

Mr. Love. My Lord, whether was he not privy to it? he told you *Titus* his letter was writ before *Alford* went. *Far.* But it was not agreed upon.

Att. Gen. *Titus* his letter that he writ, that some might come to him, to receive an account of him, was read at *Master Loves* house.

Mr. Love. I move this question, because *Alford*, who was the man sent, confessed that *William Drake* sent him. He pretended there was a Commission read in my house, I desire to know when or at what time, whether before the 29. of *March*, 1650. *Far.* I am not able to speak to the time, it is about two years since, or something under.

Mr. Love. I desire Sir, to ask him this question, whether the rude draught written by *William Drake*, or the original copy was sent away. *Far.* There was only a rude draught that *Drake* read, and then afterwards *Drake* was to draw it up.

Mr. Love. Ask him whether I gave my consent to the sending away of this Commission? *Far.* I cannot say *Mr. Love* was there when it was sent away.

Att. Gen. Did *Mr. Love* make any protestation against it? *Far.* It was agreed by all, that what the Commission could not be sent.

Mr. Love. Ask him, whether I did not declare in the Company, when there was such speech of commissionating, that it was an high act of presumption for private persons to commissionate any, and a notorious falshood, to say it was an act of the Presbyterians, and whether did not I declare my self against sending the Commission? *Far.* I did say, it was agreed upon by all, that we could not send the Commission.

Mr. Love. I can prove, if I may have the witnesses indemnified, that I declared against any Commission. *L. Pres.* *Mr. Love* hath declared then he knew of the Commission.

Mr. Love. I acknowledge the dis-avowing of any Commission, I gave my reasons for it.

Att. Gen. My Lord, I hope you will remember what the Prisoner sayes.

Mr. Love. I do not own any thing about concurring with any Commission, but only dis-avowing of it. After *Dunbar* fight, he saith, he came late, and he cannot tell whether the letter was read at my house, onely he sayes, I told him so; and whether was that the letter, or a copy of it.

Far. I cannot say that.

Mr. Love. The most that I have done, is but to receive news, and I hope I shall not die for that: Was this letter of *Masse* written to me? *Far.* I have said already, I cannot say so.

Mr. Love.

Mr. Love. I would be glad to be freed in Court.

L. Pres. You are a very free man indeed.

Mr. Love. He speaks of a sum of two hundred and fifty pounds, or three hundred pounds, sent to *Massey*, and *Titus*, pray ask him, whether I did agree that it should be sent?

L. Pres. Did he dis-agree? *Far.* I said, it was agreed to, but by whom, I cannot say.

Att. Gen. Did *Mr. Love* at that time dis-agree? *Far.* I cannot say, he did.

Mr. Love. Did I move *Captain Far*, or say, *Captain Far*, will you contribute five pounds to *Massey*, or *Titus*, or any money? *Far.* You asked me the question, what I would do?

Mr. Love. But for *Massey*, and *Titus*? *Far.* I did conceive, it was for *Massey*, and *Titus*.

Mr. Love. He says, he laid it in my house, and he so far justifies me, that he cannot say I received it, and God is my witness, I never did see it in my life: If another man agrees to receive money in my house, I hope the Court will not judge me for it.

L. Pres. It is an easie matter for you to take it, and convert it to another use. *Far.* I do conceive that *Captain Massey* had the money.

Mr. Love. Now you clear me; another man brings the money, and I do not order him to bring it, and another receives it, and not I.

Captain Far withdraws.

Att. Gen. Now my Lord, we shall conclude in a very short word, with a Minister to a Minister.
Master Jackson the Minister is called into the Court.

Mr. Jackson. Sir, I dare not swear.

L. Pres. Dare you testify the truth, when God calls you to it? for God will appear in no other vision then in the power of Magistracy.

Mr. Jackson. I dare not speak against this mans life.

L. Pres. Dare you speak the truth before a Magistrate?

Mr. Jackson. That that I say is this, that I look upon this man, as a man very precious in God's sight; and my Lord, I fear I should have an hell in my conscience unto my dying day, if I should speak any thing that should be circumstantially prejudiciall to his life; and in regard of these terrors of the Lord upon me, I dare not speak.

Att. Gen. I think all the Jesuites in all the Colledges have not more desperate evasions or shifts from the purpose then these men have. My Lord, you now see what a desperate combination here is, that men being before authority, and in the face of Magistracy, in such a Court as this is, so eminent in the presence of it, and so authorized as this is, that men should dare to dally as they do, and that Ministers should say, they dare not speak the truth, not when treason is hatched and contrived, they dare not speak the truth; that this man should be more precious, though a traitour, then the Common-wealth which should be preserved. I hope we shall root these opinions out, or some of the parties that hold them; that I will say.

L. Pres. Master *Jackson*, you are one of the parties in these meetings, you have been at their meetings, and we require nothing of you but to speak the truth. *Saint Austine* will tell you, that to conceal a truth, or tell a lie, you had better let the world fall about your ears: you are required nothing but to speak the truth, and will you say this truth will be a torment to your soul? are you a Professor of *Jesus Christ*, a Minister of God? the great errand you are sent hither about, is, to speak the truth from him; therefore lay your hand upon your heart, and do as becomes you as a Christian, and as a rationall man, and as one that will tell truth, for by the Truth the world stands: we are all no better then savage men, if we have not judgement to tell truth one to another.

Att. Gen. My Lord, Suppose *Mr. Love* should kill one of these men, (that doe hear the debate) in the presence of *Mr. Jackson*, and he should be called to give evidence, and refuse it; he may take away any mans life; personall respects should be set aside, when we come to judgement. You see, my Lord, the person of this man, how it is preferred by this man. That which is the truth, you are required to speak, and nothing else.

L. Pres. Have you any oath or promise among your combiners, to be secret in this business?

Mr. Jackson. Never in my life, my Lord.

L. Pres. Will you take your oath? *Mr. Jackson.* I dare not, my Lord.

L. Pres. What is your reason?

Mr. Jackson. I have told you my Lord, and I will tell you again, I am a man of a troubled spirit, and I dare not do any thing that should cause a hell in my conscience to my dying day.

L. Pres. Do you look to die? *Mr. Jackson.* Yes, my Lord.

L. Pres. And do you expect to live again?

Mr. Jackson. I trust in Jesus Christ I shall live again.

Att. Gen. My Lord, I desire your Clerk may be commanded to give him his oath, and he required to take it.

The Clerk tenders him the oath.

L. Pres. Will you take this oath, or not?

Mr. Jackson. No, my Lord.

L. Pres. Then I think you are the men that were spoken of before, Jesuits and Priests: they say, you are none, but you are their brethren.

Att. Gen. My Lord, these go beyond Jesuits, the Jesuits will swear with a reservation, and these will not swear at all; this man must be proceeded accordingly with, for if this be allowed, I conceive there will be no justice in England. And in respect of the quality of his person, function, and gravity, by so much is it a more pernicious example, and it aggravates the thing every way.

L. Pres. Let it be known here, that it may be dispersed abroad, and I think there are some of most Counties of England. And this air is gone forth, this very plot is secretly spread with some chief Ministers throughout all England.

Att. Gen. This right they have done to many of them, that I believe it will make a more severe inquisition into these persons, then otherwise there would be: it is not blood that is look'd after, but confession and contrition: I am glad that those that are not Clergy men do come in; and the Clergy will not confesse at all.

The Court consults a while.

L. Pres. Master Jackson, For your refusing to swear, the Court fineth you five hundred pounds, and imprisonment during the pleasure of the Court.

The Keeper of the Fleet is called upon, and commanded to take him into custody.

Mr. Love. My Lord, I have some motions humbly to make to this Court. The first is, to intreat your Lordship, and the rest of the members of this Court, that if I have let fall any expressions through inconsideratenesse, or for want of skill in the Law, that have been an offence either to your Lordship, or to any, I beseech you, if I have spoken any derogating expressions, or made any unseasonable motions, that you would impute it to my ignorance.

L. Pres. None of them shall hurt you.

Mr. Love. Then I intreat this favour, that I may have counsel assigned me, & Soliciters here in Court, and in my chamber at the Tower, and a copie of my charge, and convenient time, as the nature of the business requires, my charge being long, and I have not read a word of it, nor the depositions: that I may have, I say, counsel assigned me, & convenient time to bring in my answers; & I am confident, through the good hand of God upon me, I shall clear my selfe of all the reasons charged upon me, and of all their aggravations, through straines of wit, and quilllets of law, by instruments of State; I am confident, I shall clear my innocencie, that I shall not stand a traitour before you.

L. Pres. They being instruments of State, are instruments of God, appointed by the State. For your time, you have all this afternoon. Are you not ready?

Mr. Love. I was yesterday nine houres lock'd up in that close room, and in this place, and I could not read one word last night, nor out of trouble of mind, but through wearinesse, being kept so many hours in the Court.

Att. Gen. My Lord, he hath had a fortnights notice of his trial to prepare for it; My Lord, wee have been two dayes, and by the course of proceedings, if the Gentleman had had his trial by a Jury, both must have been dispatched in one day. We are appointed to go on to hear his defence now, or else on Monday.

Mr. Love. I desire a convenient time to bring in my witnesses, to make it appear how the witnesses against me contradict themselves; I have not yet read the depositions of one man, and I cannot read the depositions by Monday, and to morrow is a day that some time of it should be spent in other imployments.

L. Pres. To do justice, you must run out of the Church, and though you were at your prayers, you must forsake

for sake praying and Sabbaths, to do justice; Sir, this is of a higher nature then all your preaching, and praying.

The Court consults a while together.

L. Pres. The Court all agree to give you till *Wednesday* eight a clock in the morning.

Mr. Love. I desire that I may have counsel here, and in my chamber.

L. Pres. You have shewed nothing these two dayes, that raises any doubt in matter of Law.

Mr. Love. There are some things in my charge, that I doubt this Court cannot take cognizance of, something in those acts, and something in respect of the time. It is matter of law, whether the act speak of sending, or receiving letters, or messages. And here are eight witnesses come in, and never a man proves that I received letter, or sent letter, or lent any money. And this I conceive is matter of law, whether the acts reach, being present onely where other men lay down money.

L. Pres. You have had counsell?

Mr. Love. My Lord, I have had none. *Att. Gen.* For counsel, you are to send him none, my Lord; he hath his liberty, he hath recourse for all the people in England to come to him.

Mr. Love. Counsel have refused to come to me, I have there letters about me. *Here he reads the letters of some Counsellors which they sent to him to the Tower, declaring they could not come to him, unlesse they were assigned by the Court.* *Att. Gen.* All that we can say to you, is, that Counsell may come to you, if they will. *Master Love is commanded away, and the Court adjourns till Wednesday.*

The third dayes proceedings. July 25. 1651.

The Court is set, and Mr. Love is commanded to the Bar.

Att. Gen. *Mr. Love.* This is the day the Court hath given you, (according to your desire) to make your defence, and they are ready to hear it.

L. Pres. And I hope those directions that have been given, have been observed, that any persons of what qualitie soever, either Lawyers, or others that came to you, have had in a fair way access unto you. And that you have been debarred nothing that the Court gave order for; if there have been any impediments, we will do our best to have them taken away.

Att. Gen. My Lord, I have nothing more at present against him; you have heard that whereof he stands accused, and the evidence produced to prove it: and my Lord, I hope they be sufficient to convince the Gentleman, that there is prooffe against him for these facts, and treasonable designs, whereof he stands accused. This day is appointed for is defence, if he think fit to make it; but if God hath otherwise wrought upon his heart, and that he himself is convinc'd, that the charge against him is proved to be true; to me it will be the best way of his preservation; But what way soever he thinks fit to take, I shall be ready to go along with him in it; and so my Lord, I expect what he shall say.

Mr. Love. My Lord, I shall not trouble your Lordship, and the Court, to bring in at present any witnesses, to testify any thing that might invalidate that testimony that some have brought in against me; I love not to protra time, but I should betray my own innocencie, should I by my silence lie under all that charge and obloquie which is cast upon me: and therefore, I deem it my dutie wherein I can, and as far as I am able, to expresse my selfe before your Lordship, and the Court; And therefore I humbly crave leave of your Lordship, and this Court, that I may make my defence for my life before you.

Although I am denied counsel to plead for me in this Court, which is so just and necessary a means for the preservation of my life, yet my comfort is that of the Psalmist, *My defence is of God, which saveth the upright in heart, and pleads the cause of his servants against him that puffeth at him.* *Psal. 7. 10. 12. 5.*

My Lord, You have granted me that favour, which the Romans did to Paul, that he might answer for himselfe, concerning the crimes laid against him.

In making my defence, I shall humbly crave leave to proceed in this method, To speak something first concerning the charge. 2^{dly}, concerning the witnesses and their testimony. 3^{dly}, some thing concerning my selfe; and then Lastly, some things humbly to propose to your Lordship, and the Court. Concerning my charge. *Mr. Attorney General* hath exhibited a charge against me consisting of two parts.

parts. Of high treason, and of other high crimes and offences. As touching the first, comparing the acts which the State hath made, with the actions which my selfe have done, I know not any personall act of mine, (proved against me) that renders me guilty, as to treason, by any publick act of your Lordships; And therefore I pleaded the generall issue, Not guilty, as to that.

As to the second, my Counsell, having a general license to come to me, and since having been with me; they have acquainted me that presence with, or silence at what my accusers have done, this renders me culpable by your acts. And therefore as to that, I shall humbly commit my selfe to your justice and mercy.

Concerning Sir, the Charge laid against me, I can safely and truly say, I am charged with many things, which I ought not; being pretended to be done before the Act was published, which constitutes this Court; I am charged likewise therein with many things that I knew not, and with other things that I did not; and therefore dare not in conscience lie under the obloquie of the whole charge. I do therefore in generall declare and protest against what is mentioned in the charge, touching the raising of insurrections, seditions, and rebellions; I may say in that regard as *Jeremy* did, I desire not that wofull day, God he knows.

To the other particulars, to wit, the confederation with *Fermin*, *Piercy*, and others in forraign parts, to raise forces, I answer, I dislike the very mention of their names, or any concurrence with them in any practise of such a nature; who are persons, whose principles are so contrariant to religion and liberty.

As touching the other particulars; to wit, a correspondence with the Son of the late King, the Queen, *Fermin*, and *Piercy*, and others mentioned in the charge; I doe declare before you, that I never received letter from, nor sent letter to any of them, nor had I any correspondence with them.

There are other things in the charge, to which all the depositions of the witnesses doe not in the least come up: And should I by my silence, render my selfe obnoxious to the whole, you might judge me to be guilty of that which indeed I am not guilty of.

I observe in reading the charge, that there are many things in it, which the witnesses doe not in the least speak unto. For first, None of them swear, that ever I writ letter to the King, or to the Queen, his mother, or to *Fermin*, *Piercy*, or any other person named in the charge, or to any person of the *Scottish* Nation, since the troubles began.

Again, None of the witnesses swear, that ever I either desired, or perswaded, or directed any person to write any letter to any persons, whose names are mentioned in the charge; or to any person in, or of the *Scottish* Nation; Nor do any of them swear, that ever any letter was written in my house: but that onely letters supposed to be come from, or sent to the *Scots*, were read there, which I do not deny. Again, None of them swear, that ever I did so much as read a letter in my house, or other where, that was pretended to come from the *Scots*, or pretended to bee sent into *Scotland*. Further, None swear that ever I gave my expresse and particular assent to the sending away of any letter. And none swear, that ever I collected one peny of money, either for the King, or the *Scots*, or any person in *Scotland*. That which is affirmed by one testimony, to wit, by *Alford*, that I moved for money, I shall answer when I come to it. Again, None of the witnesses prove, that ever I invited any person, or forraigne forces, to invade the Nations of *England*, and *Ireland*, which yet is laid expressly to my charge, in the charge read against me: None likewise prove, that ever I plotted, contrived, or endeavoured to raise forces, tumults, or insurrections within this Nation, against the present Government. None swear, that I was a correspondent; Indeed *Adams* in his testimony had these words, (which both the Notarie and my selfe took,) that he took me to be a correspondent: but when I had your Lordships, and the Courts leave to put this question to him; Whether upon oath he would affirm I was one? His answer was, that he could not positively say I was so, but he said, he did conceive I was a correspondent, but did not say I was so. So that Sir, as to these particulars, there are none of the eight witnesses; (neither the seven, that have been sworn, nor yet Master *Faguel*, whom I doe not take to be under an oath,) that doe charge any of these particulars upon me.

I have a word also to speak concerning the witnesses, who are my accusers, and I might say, there is an incompetency in them, as to their number. There are many particulars sworn against me, to which but one witness hath sworn to one fact; and this I shall humbly offer to your Lordships
and

and the Courts consideration. I might alledge also an incompetencie, as to their quality, they are not onely persons accused of treason, and so are not to be believed, but they have made an open confession of that which is treason by your Act, and so are not *legales iustes*. They have done that by an open confession, which as I am informed, is equivalent to a conviction; they have confessed, sending of letters, receiving of letters, and lending of money. But they have proved none of these things against me. Now they having both given it under their hands, and also publicly declared that they have done these things, I cannot judge them competent witnesses against me; but this I must leave to the Courts consideration.

Sir, Concerning the incompetency of their number, To that wherein two witnesses doe concur, I am concluded. And wherein they have testified any thing true, I would not deny it for all the world, and wherein they agree in their testimony in a truth, therein I will be candid, and ingenuous to acknowledge it.

My Lord, Though the Charge be long, and my time but short, and the depositions many sheets of paper, (and truly I could hardly read them over, till late last night) yet through the good hand of God upon me, I shall labour to make as plaine and clear a defence as God shall enable me.

Sir, In reading over the charge, I observe, that those things which seem most criminal against me, are sworn to, but by single testimony, and I will mention with your Lordships leave a few particulars.

First, Touching the letters, said to be from *Titus*, the effect of it being as was said, to desire some to come over to *Calice*, that he might give them information touching affaires at *Fersey*, none but *Far* swears that, this letter was read in my house. The other witnesses, some say, it was read in one place, and some in another; *Alford*, I remember, he sayes, he heard it from *William Drake*, and *Adams* sayes, it was read in *William Drakes* house, but none but *Far* swears it was read in my house. There is likewise none but *Far* swears, that Major *Alford* was desired in my house to go to *Calice* to *Titus*, neither *Faguel*, nor *Porter*, nor *Alford*, nor *Adams*, nor any of the rest lay this to my charge; it is onely *Far*, that lays this to my charge, and he doth it most untruly, which I will make out unto you by an undeniable demonstration.

He says, that at a meeting at my house, the company did desire Major *Alford* to go to *Calice*. Now if your Lordship observes *Alfords* testimony, he tels you upon oath, that he was never in my house, till after he came from *Calice*, nor ever spake with me in my life, till after he came from *Calice*, therefore could not be desired in my house to go to *Calice*. So that Sir, I will not lay it upon the badnesse of *Far's* conscience, but upon the badnesse of his memory. I do not think he is such an Atheist, to swear falsely deliberately, but being ask'd so many questions as he was, for he was ask'd fourscore and eighteen questions by Mr. *Attorney*, and some of the Court, he might easily say, he knew not what.

And I saw the man was confounded, and it was hinted to him what to say, by the help of the papers, and examinations taken from him in private, and shewed to him in publick; so that Sir, I saw the man under a temptation. I was loth to mention this then, though I knew his testimony herein to be false, because I would not anticipate my last answer.

A 3^d particular charged upon me by one witness onely is a copie of a letter, (not the Originall, none swears that) that *Alford* received from *Titus*, and he told him, it was a copie of a letter from the King. Now *Far* he swears that the substance of the letter was to desire Commissioners to be sent over to *Breda*, at the Treaty there; now *Alford*, who pretended to receive this letter from *Titus*, being ask'd the question, he swears that there was no such thing in the letter, that he knew of. Now truly, if any did know the contents of that copie of a letter, it must be *Alford*, who brought it over; I beseech your Lordship therefore to consider it, and though the charge against me be very high, and my condition very low, and the opposition against me very great, yet I hope I am in the hands of mercifull and just men, and that wherein you see but single testimonies, that therein you would be very tender in proceeding to a sentence against me upon those testimonies.

Again, in the next place, I observe a single testimony only in another businesse, and that is Major *Alford*; none but he of all the witnesses, did swear that it was agreed upon among us, that is, at my house, That a commission, and instructions should be sent over to the Lord *Willoughby* of *Parham*, *Massy*, *Tism*, and Alderman *Bunce*; none, I say, but *Alford* swore this; *Adams* indeed, swore that there was a motion that this should be, and *Huntington* swore this, that Mr. *Love* should say, Come, come, let it go, (to which I shall answer when I come to it.) But *Far* said expressly, three times in Court, being upon

upon oath also, That all the Company were against sending away the Commission: And *Alford* he onely swears, that the Commission was agreed upon.

I hope your Lordship, and the Court, will judge which of these to believe, and for *Alford's* affirming that it was agreed upon among us, I am sure, if he had any conscience, he could not say that I agreed to it. I will not deny (now witnesses have proved it) but that I was present. But I did expresse my selfe against the Commission and instructions, as being an act of high presumption, for private persons to send commissions and instructions; and as being an act of notorious falshood, that it should run in the name of the Presbyterian partie; when none did know any thing of it, that I know of, but onely those that were then in the room; and I beseech your Lordship, and the Court, to consider that this is not onely a single testimony, but that it is said to be done in the year 1649. a great while ago, my Lord: And so the businesse of *Titus*, if it had been true, was done some time before that; so that Sir, it being done before the Act of the 16th of *March*, 1650. which constitutes this Court, herein I hope it will not be deemed criminall, if I had agreed to, and approved of the Commission, which I never did. Another particular, to which I observe, there is but a single testimony, which is *Alford* also; he swore, that at a meeting at my house, I moved for contribution of money to *Titus*: None swore this, but onely he, *Adams* swore, I took pen and ink in my hand, but he knowes not what I wrote: others swore that I was sometimes present at the meeting, but none but *Alford* swore that I moved at a meeting for contribution of money. Now Sir, as to that it is but a single testimony; and if it were true, I do not deem it comes under the Act, because the Act (of which I was ignorant, till the day I heard it here in Court) of the second of *August*, 1650, That Act doth adjudge this to be treason, to wit, *The sending, or causing to be sent money, vessels, or armes, into Scotland*. Now Sir, if it had been true, which this witness deposeth, That I at a meeting did move for money, yet he proves not against me, that ever I received or sent away a penny; and if I had moved it, that had neither been a sending away of money into *Scotland*, nor a causing of money to be sent away; and so brings me not as to treason under your act.

Another thing, unto which onely a particular witness swore; to wit, *Far*, is, that I moved him particularly to contribute money; he chargeth not this at a meeting, as *Alford* doth; for he sayes, he came in late, but saith that it was a personall motion to him alone; and he doth not say, that I moved him for money, for *Massej* and *Titus*, but that I onely ask'd him this question, Captain *Far*, what will you do? And if your Lordship consider it, and that your Notaries have taken right, you shall find that to be his answer, which I shall answer when I come to it; and thereupon he confesses, he brought five pounds to my house, but he doth not tell you that I received it, and God is my witness, I never saw it, nor received it, nor did I give any directions about it; but as *Far* was going out of the Court, he named Captain *Massej*, the person which hee thought received the money; for which hee was rebuked by some that were by him, that so the greater odium might lie upon me; as if because the money being brought to my house, I must needs therefore receive it; his name, as I am informed, that rebuk'd him for declaring, who received it, is Captain *Bishop*; so that they would insinuate into your breasts, who are my judges (who I hope will be conscientious) That it was I that received the money, when the witness meant honestly, that another received it; but if I had received it, or moved for it, yet he is but a single testimony to that particular. Again, in reading the depositions, I take notice that there is onely a single testimony to those words, (upon the reading; reading I cannot say, for I never read it; upon the hearing some papers read, supposed to be a commission) that *Huntington* swore, that I should say, *Come, come, let it go*. Those were his words; but the other who were there present, two or three of them being ask'd whether they heard me speak such words, they all of them denied that they heard any such words. Now truly, this *Huntington* is a man whose face I never saw before that day, nor since, till I saw him here in the Court; and if I had known that a businesse of any dangerous nature had been come to my house, which I did not; (for I knew no more of it, then any here present, before *Drake* took the papers out of his pocket, which *Huntington* confesses were written in characters, and read by *Drake*.) I should have been accounted a very indiscreet man, to speak any such words in the presence of a man whose face I never saw before. And for those words, that I should say, *Come, come, let it go*. I hope your Lordship, and the Court, will be satisfied, that I never spake any such words; as to the commission and instructions, for then I should have contradicted my self in one breath. For at the same time, I had spoke against it.

Again,

Again, I observe in the depositions, None but *Adams* affirms that there was a Letter, which *sayes* he; *was declared to be directed to the Generall Assembly of Scotland.* He doth not swear it was directed to the General Assembly, but that it was declared to be so, and so swears by hear say: None but he (I say) affirms upon oath, that at my house there was a Letter read which was declared to be directed to the General Assembly. And he says further, He thought this Letter was pend by Master *Love*, or *D. Drake.* But I beseech your Lordship and the Court to consider by what reason he did conceive this, and I hope your Lordship will distinguish between a positive assertion, and a conjectural supposition. For being ask'd why he conceived so? I conceive so; says he, because of the language of it; as if he had never saw any Letter of mine; to know that poor and low stile I write in, should conceive that either I, or that other Gentlemen named, should pen that Letter, meerly because of the language of it; it being (he said) in order to promote the ends of the Covenant. I hope the Court will judge of the insufficiency of this evidence: and were it never so clear, yet as to that particular, it is but one testimony.

Again, None but *Adams* sware concerning a large Letter, that for my part I never knew of, till the day he affirmed it here in Court. A large letter, he says, in the Nature of a declaration, pend as he thought, by Master *Love*, or Doctor *Drake*, wherein it should be said, that they could not send money, till the Scots did appear more considerable, and grew nearer to Action. Yet he confesses he had no ground to say, Master *Love* pend it. And indeed, he had not. But Sir, as for this letter, though I durst not for a world deny any thing which I know to be true; Yet God is my record, to any knowledge, I never so much as heard any mention of it. And as for these words he speaks of to be in the Letter, I know nothing at all of them. Nor did I ever hear them, as I know of, till I heard him affirm them here in Court.

But if it had been so, yet he is but a single testimony, and I beseech your Lordship to consider that he says it was to this effect, or this was the substance of it. Now I hope, so many Grave Judges and Lawyers that sit upon my life, and so many conscientious men, will be tender of a mans blood, when a man shall come in with evidence, and shall shew neither my hand, nor the letter, nor the Originall, neither copy, nor transcript, nor any thing but the vain rovings of a mans memory in things spoken or done so long ago: And that a man shall come in against a mans life, and shall only say, that this was the summ or substance of it, or it was to this effect: And I being a Divine, I shal not speak as to matter of Law, that this is insufficient testimony, but as a Scholer, and one that studies the Scriptures, I shall observe one memorable instance that pleads my justification in this particular; and they are the words of Christ; Christ said, *Destroy ye this Temple, and in three dayes I will raise it up:* Now the Scripture in *Mark*, says, *There arose certaine and bare false witnesses against Christ; saying, we heard him say, I will destroy this temple, &c.* John 2. 19.
Mar. 14. 57, 58.

I beseech your Lordship to consider, that in this testimony of the false witnesses against Christ, there is only the variation of a word, and the addition of a letter; there is the addition of a letter, and the alteration of the word ye for will, (there's all) for Christ did not say I will destroy, but, destroy ye, and yet the Scripture takes notice of it, that this addition of a letter, and alteration of a word, brought his accusers under a false testimony; though they spake according to their intention, for they did verily beleve he spake of the Temple, for they said, Forty years was it in building. So that I beseech you be tender in matters of blood; I know you who are skilfull in the law do know that the proof of treason must be as cleer as the Sun, *Probationes oportentes esse luce clariores.* Now when a man shal come against a mans life, and cannot shew any letter that ever he wrote, or that ever he did receive; but shall only swear it was to this effect or to this purpose, or I beleve this was the substance of it, I hope you are so wise and conscientious, that you will passe no judgement upon this conjecturall evidence.

Another particular, to which only one witness testifies; and that is *Adams*, he swears that I should say, that if the Presbyterians were in Armes, by the blessing of God, malignants might be prevented from getting the Day. Truly, I do not know what crime is in these words, but as they may be wrested: But Sir, I do remember that this *Adams* hath often come to my house; he said, seven or eight times; he might have said, seven and twenty times; for he hath come some times once or twice a week to my house, to tempt me (as I now perceive) and hath offered me money: and would ask mee whether I knew any thing for a publick use that might require money. And though I never suspected him, yet so free am I from mainraining correspondencie, or from having intelligence, or contributing of

of money to maintain a war, That I never received one penny of him in my life, though I have been moved to it by him: But I remember, of late especially, about a quarter of a year before I was in prison, he would come once or twice a week to my house, and he pretended that he was wrought upon by me, and that I had turned him from his malignant principles; for he was very violent for *Hamilton's* invasion of *England*, which I was, and to this day am against; and I did labour to possess him what a mischievous design that was: And so he pretended to be turned to my principles, and upon this got some room in my affections; but these words were not above a fortnight before I was committed to prison: and I remember, the occasion of them was this; I was bewailing the great alienation and difference that there was between the Presbyterian and Independent parties (though I do not love names of distinction) and indeed, thus I said, That if the godly party, that are now divided and disjoyned, both of the dissenting and the Presbyterian way, were in arms, there were no hopes that ever the Malignants should get the day. And God is my record, I spake nothing to him but to this purpose. And thus through the good hand of God upon me, I have spoken to what I observe in reading the Depositions, wherein I finde but single testimonies against me.

I shall now crave leave (which is the main of my work) to run over the Depositions as briefly as I can; for I shall not trouble you with large Speeches: but being the Depositions were large, and the Witnesses many, your Lordship and the Court (I hope) will bear with me with the more patience, if I speak more largely in it. It is my duty to speak for my self, and 'tis for my life.

The first Witness that was heard in Court against me, was *Henry Potter*. As to his testimony, there are many particulars which he was ask'd about me, to which he spake but conjecturally: As he thought, and as he believed, and as he received. And when papers by *M. Att. Gen.* of his Examination were tendered to him, he answered, that then he had a latitude to speake more than he durst affirm upon Oath. And upon this I shall humbly crave leave that I may make this motion to you: That you would not, in passing judgement upon me, hearken to any private examinations, which are extra judicial to be brought in Court against me; for most of the Witnesses had their private Examinations shewed them in Court, and were read to them, and they did not speak in their relations of what they knew, but what they conceived; and when they could not tell what to say, then their Examinations were produced to direct them; and I hope your Lordship and the Court will take notice of this. And herein I cannot but acknowledge the justice of this Court in this particular. That you would not receive private examinations till they came face to face, that I might answer to the crimes laid against me.

But as to this Testimony, I shall not run over things that touch me not, I must not flatter my self to pass over things that concern me. For I know it will be look'd upon with more prying eyes than mine are. There are onely two things in his testimony that concerns me. He speaks not of any meetings at my house that he knows of; he speaks not of any money that ever I lent him or gave him, though there was a narrow and exact examination of him in those particulars. But two things concern me in his Deposition: The one is, that he received a letter with a great L, upon it, from one Colonel *Bampfild*, which was a Narrative of the Affairs of *Scotland*, which letter, with two more inclosed from my Lord of *Argile*, *Londen* and *Louhain*. He said, he brought them to Mr. Love; and herein I might take notice, that he forgot himself a little, for he might have said, that he brought them first to Mr. *Faguel*; for *Faguel* did affirm in Court, that *Potter* brought the letters to him, and spake to him to come to me. The substance of the letters from the Earl of *Argile* and the rest he says, were to move for ten thousand pound; and (as I remember, *Faguel* says, for five thousand pound: But *Potter* himself acquits me in this matter; for he doth not swear the letter was to me, nor could he swear it justly; nay, he swears, he did not think it was to me. And as for this *Bampfild*, he is a man whose face I never saw to this day. And he swears, (and indeed, he had been injurious if he had not told you thus) that when he came into Mr. Love's house, he said, Mr. Love, I have news to shew you. And unlesse things be aggravated against me by the insinuations of men, and by rigid inferences and collections, this will be the worst charged upon me. That there were severall meetings at my house, and severall letters read there; which I do not deny. But Sir, he confesses, that he said, [Mr. Love, I have news to shew you]; and that he opened some of the letters, and that some were not opened when he brought them: But neither he nor *Faguel* swears, That J opened them. And he tells you, that he carried the letters away with him. And he swears further, that both my self, and all that were there present did manifest an utter dislike and detestation of those letters. But herein I know

This passage of C. Potters, [Mr. Love, I have news to shew you] was through some mistake left out of his Depositions.

I know what will be laid to my charge. It will be said, why did not Mr Love reveal them? Truly to this I do ingenuously say, That I did conceive, by reading of the Act that constitutes this Court, That those who were bound to reveal, that did receive them; and not that I was bound to reveal that which another man received. But herein I am better informed by my counsel, and they tell me, That presence with, or silence at what others do, makes it a criminal fact in me, if the matter of the Letter be criminal and reasonable by your Acts; and therefore in this, that I did not discover them, I shall humbly beg your favour.

The next thing in *Potter's* Testimony that toucheth me, is, He swears that he heard of a Proposition for raising of 400 l. for *Tism* and *Masse*; But he varies from the others; *Alford* said, 200 300 l. and *Fay* said, 250 or 300 l. and *Potter* saith, 400 l. But he saith he was not present when the proposition was made, and therefore he cannot speak as to that. But yet saith he, *I brought ten pounds to Mr Love's house, and there left it* (five or six persons more being in the room.) Mr. Atty. Gen. was pleas'd to ask him whether he did not give me a twitch by the hand or cloak when he brought it? *Potter*, I remember, denies that he did so; and I do not remember that ever he did it, nor do I remember that ever he laid penury of money down in my house. And I tell it you in the presence of God, I never saw it, nor received it to this very day. But Sir, if he had given me a twitch, which is intended as an aggravation against me, I hope a Judicatory will not proceed upon so silent a thing as that is. Though *Solomon* says, *There is a teaching with the fingers*, yet that is so silent a thing, that a court of Judicatory cannot take notice of it, unless it be manifest and apparent by some act. And therefore seeing he doth not affirm that I saw the money laid down, or that I received the money, or directed or ordered him to come to my house with any money, I hope you will not lay that to my charge. And thus I have done as to that particular. *Pro. 6.13*

There is only one thing more in order to the letters he was examined about. He was ask'd what answer was returned to those letters that he received from *Bamfield*, and the Earl of *Argyle*, and the rest, that he shew'd Mr. Love. To that he gave this account, That a letter was left at his shop, which he thought (he said) came from Mr. Love or Doctor *Drake*. Now Sir, for my part, I declare in the presence of God, That I never in all my life, either wrote or sent, or left Letter at his shop; And although, I am not to plead an other mans cause, yet I believe, that godly Minister he mentions, will clear himself also; but I must only speak to my own defence. For my part, I never in my life, sent Letter to his shop, written to those persons; And he only swears, That he thought the Letter left in his shop, came from me or Doctor *Drake*: But how could he know from whom it came, or what was the matter of it? And if it had come from either of us, which he did not affirm, yet he doth not say he opened the Letter, and so could not tell the Contents of it, that it was an Answer to the supposed Letters he shew'd me. I have only one thing to observe in his whole Testimony, and that is, That he confesses until he had a sight of other mens Examinations in private; to wit, Of *Alford* and *Adams*, the things did not come to his remembrance, or words to that effect, he hath in his depositions; and that there were some things, to which he could not speak exactly, till he first saw some Informations; and that Master Attorney General did shew him some Informations, and that did bring things to his remembrance; and that before Captain *Fisher*, and Mr. Attorney did prompt him and remember him, he had forgot. So that Sir, I beseech you consider, whether this be a clear and good Testimony in Law, That when a man hath forgot a thing done so long ago, he shall through the Examinations of others, have his memory rub'd up, and then shall come here in a publicke Court, to testify this against a mans life.

The next Witness is Major *Alford*, He gives you a large Relation about sending *Tism* to *Ferfer*, and of a 100 l. given him for his journey, and of Letters to the Queen, and *Fermine*, and *Percy*. My Lord, I am as ignorant of all these things, as the childe unborn, and did never know that *Tism* was gone or sent to *Ferfer*, by any persons, till a long time after I heard he was there, and till I heard of his name in the *Diurnals*. That he was an Agent for some Presbyterians; till then, God is my Record, I knew nothing of that; and I need not speak to this, but because this was part of my Charge, and brought in to the Court; many may imagine, as if I were guilty upon the whole matter; but that which concerns me, is this, He affirms that the Commission and Instructions were agreed upon, at my House, to send to some persons; To wit, My Lord *Willoughby* of *Parham*, *Masse*, *Tism*, and Alderman *Burke*, to Treat at *Bredah*; and this to be in the behalf of the Presbyterian Party.

Now Sir, I shall humbly crave leave to offer, wherein this Testimony is not onely disagreeing with the Testimony of others of the Witnesses, but even to his own Testimony also : For here he says, it was agreed upon at Master Loves house, and in three leaves after, he says, It is true, there was a Commission and Instructions read at Mr. Loves house ; but whether they were agreed upon there or no, saith he, I know not : I do not say, he hath a bad conscience, but sure I am, he hath a bad memory. He disagrees with the witnesses also ; for Far did expressly affirm upon Oath, That all the company was against sending them away ; and therefore, for Alford to say it was agreed upon among us, in that I am sure he doth not speak truly. Another thing which Alford layes to my charge, is about a Letter, which after Dunbar fight should come from Massey, wherein he should write for Money, and for Arms, by the way of Holland ; and he swears, this Letter was read in my house, and says, That upon the reading of it, I did move for the contribution of Money to be raised for the supply of Tism. Now before I answer to that, though I am not in a condition to retort, yet I shall humbly crave leave without offence to Mr. Attorney General, to intreat the Court to take notice of this one thing : Master Attorney General, when the witness had spake these words, did pray your Lordship and the Court to observe, That Massey wrote for Arms, and Mr. Love moved for Money ; as if he would insinuate to the Court, that he writing for Arms, and I moving for Money, that my moving for Money was to buy Arms : Now Alford upon oath did declare, That every man there was against Arms, and he onely said, That the motion for Money, was to supply the Personal necessities of Massey and Tism, who were in want : So that I intreat you to consider it, that that Insinuation of Mr. Attorney General, might not be aggravated against mee, and that a bad inference might not be drawn from it, as if hee writing for Arms, and I moving for Money, That that Money should be to buy Arms ; which is contrary to Major Alford's Oath. Again, another insinuation of Mr. Attorney General is this, He prayed your Lordship and the Court, to consider, That I moved for three hundred pounds. Now this is contrary to Alford's oath ; for Alford hath these words, Mr. Love did move for the contribution of money, but there was no sum spoken of. Now when he shall affirm, that there was onely a motion for money, but no sum spoken of ; Shall this be laid to my charge, as if I moved for 300l. ? Therefore I intreat you, that those Insinuations and Aggravations of Mr. Attorney General may not be laid upon me ; and that ye would take no notice of any private Examinations, nor yet of any Aggravations of those who are instruments of State ; but upon the plain deposition of the Witnesses, and according to their testimony and your confidences, I must stand or fall. Alford said further, That after he came from Tism, he gave an account of a Narrative, and of a Copy of a Letter from the King of Scots ; what he might bring, I know not ; and if he did, I never desired him, either to go to Calice, or to come to my house : For I never spake with him (as I remember) till after he came from Calice, nor till the time, he says, the Letter and Narrative was read in my house : Now Sir, he onely says it was a Copy of a Letter (not the original). That Titus (saith he) did show me a Copy of a Letter, at leastwise, which he said was from the King to the Presbyterian Party. So that this which is the Foundation of the rest of the testimony, is onely this, That the Copy of the Letter was read at my house, and that it was a Copy of the Kings Letter : This he affirms onely, upon hear-say, for he says, Tism told him so ; But who can swear, either that Tism had the original Letter, or that this was a true copy ; nay, might it not be a fictitious thing, either of Tism or of this man, as may well be suspected : So that they that receive Letters, if that be Treason, and those that write Letters, and send money, if they be Traytors ; yet they have proved none of these against me, and yet I onely am Araigned, and they in hope of Favor.

Again, I desire the Court to take notice, though Captain Far says there was this Clause in the copy of the Letter from the King, To send Commissioners to Breda ; (and yet he overthrew his oath afterwards : For says he, It is so long ago, that I cannot remember it ; but I shall speak to that when I come to it :) Yet Alford that brought this Letter, affirms, That he did not know it was to desire Commissioners to be sent ; and if it had been so, I should never have done it, and never did it : At that time I was in my Study, I do not deny it, but when Drake read the Commission, I did declare my dislike of it, and detestation against it ; and so did (as Far affirmed) either most or all the company : And if any such thing were sent, God is my Record, I did neither know of the writing of it, (other then in Characters) nor of the contriving of it, nor yet of the sending it away, till I heard Alford confess in the Court, that he carried this Commission to Gravesend to one Mason, a man whose name I never heard of, before I was in trouble : and if I had written and consented to it, yet it was in the year, One thousand six hundred forty and nine, as Major Huntington swore, and therefore

was before the time that your A^ct could take hold of me, if J had concurred to it, which J never did. Again he insisteth upon it, that I moved for a contribution. Now herein, I beseech your Lordship, that I may offer these two things.

First, This is but the single Testimony of one man, and by the Law of God, and of the Land, a man must not die, but under the testimony of two or three witnesses, in the Old Testament, *Deut.* 9. and 15. *One witness shall not rise up against a man for any iniquity, or for any sin in any sin that he sinneth: At the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established.* And least this might be thought to be a Judicial Law, pertaining onely to the Jewish State; it is therefore quoted four times in the New Testament; by *Christ*, in *Matth.* 18. by *Paul*, in *2 Cor.* 13. and in two other places; as noting it to be a Law of Moral equity, That no mans life should be taken away, but by expresse and clear Testimony of two sufficient witnesses. Now in this that may seem most to pinch upon me, that I should move for Money, there is but one witness; and it is, as I am informed, contrary to the Laws of the Land, and the Statute of the first of *Edward* the sixth, which provideth, That no man shall be Indicted, Arraigned, and Convicted for Treason, but by two lawful and sufficient witnesses; and therefore I beseech your Lordship, and the Court, That you would be tender in those things, wherein you finde but one witness speaking.

The other thing which I shall say to this point, about moving for Money, is, That I humbly conceive the A^ct doth forbid relieving persons in Arms: but now no person can be relieved by a bare motion; it is not the motion, but the having the Money moved for, before the person in Arms can be said to be relieved; and if it were true, yet it is not proved, That those persons were then in Arms: The other A^ct of the second of *August*, I conceive, gives me relief if I had moved for Money; For it judges those onely to be guilty of Treason, That shall either send or cause to be sent, Money, Horse, Arms, and Ammunition into *Scotland*. Now Sir, if I had in a meeting moved for Money, yet he tells you not for how much I moved for, for ought he knows it might be but for six pence, for he cannot swear to it; and I hope, when the sum is not spoken off, you will be very tender. Yet this comes not under your A^ct, either to be a sending of Money into *Scotland*, or a caulding of it to be sent, which is not in the least fastned upon me: When I askt him (though he swore I moved for Money) whether I contributed any Money my self, to that he answered, He could not say I did, nor could any of the eight witnesses that came in against me. And thus I have done as to his Testimony.

The third Witness is Major *Huntington*, and he affirms, That in the year One thousand six hundred forty and nine, one askt him to go to my house, and told him there was some there at Prayer, and that he might there hear some news; and that he spake upon hear-say: but then he spake upon oath, *And when I came there, Prayer was done.* Now for a man to be so positive in the first entrance of his Testimony, as to say Prayer was done, when he could not know that there was any Prayer there at all, (for when he came, it seems there was no Prayer, and how then could he know there was any Prayer there at that time?) This at the very first entrance of his evidence, I suppose might be a just ground to suspect his whole Testimony; but as for the man, I knew him not, I never saw him, as I said, before that time, nor since, till I saw him here in Court. This man affirms, That *William Drake* read in Characters, that which he called a Commission, and said, That he had command from the King, to send this Commission away, which God is my Record, I never heard, nor ever knew of it; and *Alford* that brought over the Letter, in which *Far* swore those words were, he himself denies it. But that which concerns me in *Huntingtons* Testimony, is this, He affirms, that when the Commission was read by *Drake*, I should say, *Come, come, let it goe.* Now Sir, I askt him this Question, Let it go, what doth that refer to? says *Huntington*, Let the Papers go. Now truly, I am not so bad a Grammarian, as to speak of Papers, let it go, and not to say, let them go. And if I had spoke of Papers, as he says I did, I must either be guilty of non-sense, or else he of falshood, I believe he of both. But as for those words, *Come, come, let it goe*; he doth not affirm, that I said, Come, let it go away, but let it go, and that may be a word of dislike: And if I did say so, yet it was not of the Commission, God is my Record, for he came not till nine of the clock at night, as himself says; and before he came, I had declared my self against sending away the Commission and Instructions, as being an a^ct of two high a nature for private men, and of notorious falshood, to say it was in the name of the Presbyterian Party, when it was not: And the other men that were here in Court upon oath, and that were then present, as *Adams* and *Alford*, did confess upon Examination, That they heard no such words from me.

The

The next testimony is Master *Adams*, and he relates a story of a correspondency between *William Drake*, and one *Mason*, and being ask'd, Was Master *Love* privy to this correspondency? he did so far clear me, that he could not say it, nor was I privy to it. Being ask'd again, Was Master *Love* privy to these letters of sending moderate propositions to the King? that he likewise clears me in, he cannot say it. And I can say, that I am so far from moderation in their sense, that moderation in their sense I deem downright Malignity, which I was, and still am utterly against. He was asked likewise, did Master *Love* know of collecting a hundred pound for *Tinny*? To that he answered, that he durst not upon oath say that *M. Love* was privy to this collection, and he doth not say that it was agreed in my house, to send away the commission; but says, it was moved in my house: for says he, *I cannot say it was agreed upon, for there was no vote past*. These were his words, and he contradicts *Alford* and *Farr* in three places of his testimony. He overthrows *Alford's* deposition. He affirms, that the copy of the letter from the King, was to shew what great affection he bare to the ministry of England, and promised great favour when he was in a condition to do it, and desired them to stand stedfast in the way they were in: and he saith, he dare not swear that this letter was read in my house, but he thinks it was. Now as to this letter likewise, I desire the same favour from you, That when the letter doth not appear, neither the Original, nor the individual copy, that you would be tender of passing any judgment upon me, upon the vaine revings of a mans memory; and of a mans memory too, that is engaged to prosecute my life, to save his own, as most of the witnesses that came in against me are. He saith, there was a motion made in my house, That a commission and instructions should be drawn up to send to my Lord *Willoughby of Parham*, and the rest in *Holland*, but says he, by whom I cannot say; and says he, there was no debate, as I remember, to mend the instructions; though the Attorney General did lay it upon me, as if I had corrected and amended them, when I did neither read them, nor so much as touch them in my life. The substance of the commission he tells you was to Authorize the Lord *Willoughby of Parham*, *Massey*, *Graves* and others, to assist their Brethren of the Scottish Nation in their Treaty: Now to this there is a manifest contradiction in another mans testimony. For *C. Farr* swears, that the commission he speaks of was not to treat, but only as private persons to advise that the King might agree with the Scots, upon the interest of Religion and the Terms of the Covenant, That he might not be drawn away by the high flown Cavaliers, and Malignants; so that *Farr* overthrows this testimony of *Adams*: *Adams* says it was to treat, and *Farr* says, it was not to treat but to advise: but be it the one, or be it the other, I desert both, I had no hand in, and gave no assent unto it, but manifested my dissent to the whole. He being likewise asked (for I am still upon *Adams* his testimony) whether at a meeting it was not propounded at my house to write to the Queen, and to *Germin*, and *Percy*, to mediate with the King to agree with the Scots. To this he answered no, and truly he might very well answer so, for I am sure I did never in all my life bear of a motion so much as of a letter to be writ to any of these three persons, to the Queen, *Percy* or *Germin*; and should have loathed and abhorred the very thought of it; and should think that cause the worse, wherein these persons were engaged; being ask'd whether there was not a letter from *Percy*, that writ for money to be sent to the King, and whether the answer given was, that they should stay till the King and Scots were agreed, and then to send money: *Adams* in this did me this right, He confess, he saw such a letter writ, but (says he) *I only saw it in the hands of one Mason*, a man who for my part, I never knew, nor heard of till I was in trouble: and being ask'd whether this letter from *Percy*, was read in Master *Love's* house, he said, certainly no. Being again ask'd whether about August there was not a letter written from *Massey*, wherein he said he had back friends in Scotland; and complained that he was not promoted there; and whether that letter was communicated at Master *Love's* house? In this also he did me right, for he answered, *No certainly, that Letter was not, to the best of my remembrance, read there; I heard of such a letter, but saw it not*. Then being asked whether one *Sterke* was not a Scotch Agent, and whether he did not use to come to my house to which he gives this answer: *We took him to be a Scotch Agent, and he met sometimes at Master Love's house*: Now Sir, as to that, he supposeth that he was an Agent, but doth not swear that he was so, much lesse that I knew him to be so. Nay, I can swear upon the best information I have had both from his own mouth, and the mouths of others, that he was no Agent, for he lived in England fourteen years, and had not been in Scotland in fourteen years.

And I heard himselfe say so, when he went away upon the Act; and I asked him, Are you employed by the Church or State of Scotland? and he told me no; he was not: it is in your breasts whether you will believe me or no: and likewise *M. Blare* when he was here in London, did affirm to me, that

that he was a poor honest man, and that he was no way imployed as an instrument of State. I know nothing of the mans Agency, be he Agent, or not, I never sent letter or message by him, nor received any from him in all my life; but I see it is laid heavy upon me in my charge, that I contributed money to him; but no man in his depositions did prove that I ever gave him a penny. Adams being ask'd, whether Master Love did not write down the sums of money that was to be contributed to Massey; In this he doth me right also, for he saith, Master Love had paper in his hand, but I did not see what he wrote, and therefore to that I need not answer; being further ask'd, Did not Master Love put the first letter of their names before the sums which others wrote, he answered, he could not say so. Being ask'd further, Was there not a letter pend by Master Love and Doctor Drafte, this answer bee gives, There was a letter, but (says he) I cannot deliver it upon my oath that it was pend by them, but I thought it was so. He could not tell to whom this letter was directed, but said, it was declared to be directed to the General Assembly of Scotland: Now as I observed in the beginning, this is only the single testimony of one man, and indeed it was the first Question (as I remember) that was ask'd me, that was of moment, when I was examined by the Committee, Whether I did not penn this letter? I did declare to them in the presence of God, that I neither pend that nor any other to any person of the Scottish nation since the wars began, and this I declare in the presence of the same God, still to be a truth. Being ask'd further, Was Master Love present at sometime of this meeting? he answered, I was, and the reason why he thought that we might pen it, was because of the language of it. *M. Att. Gen.* upon this (I remember) uses this expression, *My Lord, this is very high, after we were engaged in blood, this a letter should be sent.* But to this I say, there is only a single testimony, that such a letter was writ, and whether it was sent or no, he doth not prove, nor doth he prove that I writ it; and I declare to you, that I never writ it: as touching this letter, which *M. Att. Gen.* is pleased to insist upon so much, Adams, being ask'd whether it was agreed upon that this letter should be sent? he gave this answer, It was after the same manner that other things were agreed upon: but there was no vote pass, and wherfore he cannot prove my particular and expresse assent to the sending of the letter, or any other letter whatsoever; and here to take off the Jealousie of a correspondency, which in the close, through the Grace of God I shall clear to you; but to take it off now a little before I come to it: if there had been a correspondency maintained, would it have been imaginable, that from the time of the fight at Dunbar, which I think is ten months since, to this time, That there should be no letter that any man can say, nor that I did certainly know of, that either was written or conveyed, or debated upon to be written, from that time to this very day, to any of the Scottish nation, and yet all this tends to aggravate matters against me, and all the burden is laid upon my weak shoulders. Other men that have heavy loades, have laid them upon my back to lighten them from off themselves. Touching this letter, he saith, this was the substance of it, or it was to this effect, or purpose; and again I insist upon it to beseech your Lordship and the Court, to take heed what you do. It concerns your more than me, it concerns my life only; But it concerns your honors, and lives, and souls and all, That upon an uncertain evidence you do not spill a mans blood. The man never read the letter, only he heard it read; and then he brings in to that and other letters, This is the summe of it, or it was to this effect. And though this man hath done me injury in some particulars, yet in others he hath done me right. For being ask'd, Did Master Love write letters, or receive any, or mend those instructions, he only swears, he saw the letters, but cannot say I did read them; Being ask'd whether I did give my consent to the sending away of that letter after Dunbar fight, which is so much insisted upon, and so greatly aggravated, he did thus far right me; He said, I will not swear he did give his consent; being ask'd whether I was a correspondent, he said, he took me to be a correspondent, and upon these words I had leave to ask him this Question: Whether he knew I was a correspondent? To this he said, that Letters were heard by me, but said he, I cannot swear that he was a correspondent, I did conceive Master Love to be a correspondent, but I did not say so, and I dare not swear that he was a correspondent. So that herein likewise there is nothing but his humbly conceivings and his suppositions, according to which I hope you will not passe any censure upon me; and thus I have done with Adams testimony.

The sixth testimony is that of *Faguet*, which I do here again in Court except against, as no Legall witness, for he did declare he could nor in conscience take an oath against me. He did well nigh half an hour declare he could not swear, but that he would make a Narrative or relation of what was true I did intreat your Lordships leave to put it to him whether he was under an oath or no, and he said twice

at least, I am as good as under an oath : if any person good or bad come under an oath, I must stand or fall by his testimony, and according to Gods Ordinance, an Oath is to decide all controversies : But the man declared, He was not under an Oath ; and went out of the Court, and was fined five hundred pound ; and when afterwards he was called into the Court again, he did onely put his hand upon his Buttons on his Brest : So that this was not any taking of an Oath ; but fearing his Fine, he did it, though with much seeming regret of Conscience ; and I am informed this day, that he denies, that he was under an Oath : And if so, Then I have nothing to say to his Testimony, and so shall not speak to it, but onely as to a bare Relation, and naked Information. There is nothing that doth concern me in his Testimony, but onely a concurrence with *Potter* ; *Potter* and he coming to my house, with some Letters (as he saith) One from *Bamfield*, another from *Argyle*, *Louden*, and *Loubian*, and *Belcarri* ; and another from one Master *Baily*, if I remember right. Now Sir, as to these Letters, I do not deny, but that they brought them to my house ; nay, I do acknowledge those two men did bring those Letters to my house, at leastwise, which they said were such ; but whether they were the Originals, or Copies, I know not ; for I never read nor kept the Letters, but they carried away the Letters with them ; and Captain *Potter* said, Master *Love*, I have news to shew you, at that very time when Mr. *Jaquel* and he came to shew them at my house. This Witness, I cannot call him so, but this Informer saith, That being askt what was done upon the hearing of those Letters, he said, *Potter* read the Letters ; but that there was no Agreement upon it, but an utter dislike in all that heard them, about the Contents of them : And he hath these words further, It was, says he, a trouble, I am confident, to them that heard and read the matter of those Letters ; but being askt, Did Master *Love* agree to the giving of Forty pound to *Bamfield*, and his man ? To that Question he answers thus ; he said, There was no Agreement, but it was thought convenient by all. Upon this, I craved leave of your Lordship to ask him this Question, How he knew my thoughts, that I thought it convenient ; to which, he gave this answer, I cannot say any thing, that Master *Love* did say, it was convenient. So that therein, though he might presume upon a mans thoughts to know them, yet he must onely judge my thoughts by my words, as the tongue and heart agrees ; for he is not a god : but he doth not say, That I said it was convenient ; nor did either of them prove that ever I gave a penny, either to *Bamfield* or his man.

The last Witness that came in against me, is Captain *Fars*, and indeed, I do not know what to make of his Testimony, I will not call it a prompting, that will be thought too bad a word ; but certainly it was such a Testimony, that I never heard produced in any Court in my life. For Master *Attorney General*, and some others here, did ask him Ninety eight Questions ; so that the man spake nothing deliberately, but spake by reading out of his private Examinations, which is extrajudicial to be brought in Court where the witnesses are to speak *Viva voce*. There was, I say, so many Questions (besides those I had leave to ask him) propounded to him, during the time he was upon his Oath ; And the man was of a dull spirit, and slow of speech, and I did perceive him to be so possessit with fear, that he knew not what he said ; for he hath manifest contradictions in his Testimony, which I believe all the Court will see, and therein concur with me, when they come to hear them. The first word I heard him say in Court, was this, To desire the benefit of his Papers ; it seems he did suspect the badness of his memory, that he must have his Papers to help him (and Papers written by another) before he would be depofed in Court against me for my life.

Being askt, whether upon the ending of the Treaty at *Fersey*, there was not a Letter came from *Tism*, to desire some body to come unto *Callis* ? and whether that Letter was read at any house ? and whether at my house *Alford* was desired to go ? He affirms, he was (which none else did) and which is a most notorious falshood. I have no rancor in my heart against him, the Lord knows I have prayed for all those that persecute me ; and my heart cleaves to them in love and pity : I do not tax the badness of his conscience, I think he dares not be so vile, but I do tax his memory in things done so long ago : And afterwards he says, He could not remember ought (though he did pretend to remember) because they were done so long ago : yet before he did affirm them. Now to demonstrate this that he says in this Clause to be false, That *Alford* was desired in my house to go, *Alford* himself says he was never at my house, till he came from *Callis*, which is certainly true ; and therefore *Alford* could not at my house be desired to go to *Callis* ; when there was an account given of *Alfords* return from *Callis*, then I know he was there, though I never spake with him before that time, as I remember ; nor was he ever within my doors till after his return : But says *Fars*, I cannot say Master *Love* was present, while *Alfords* return was there read, for sometimes he was absent.

Then

Then further being ask'd what was the substance of that copie of the Letter from the King that *Alford* brought from *Titus*? he answered, that the sum of it was this, That the King of Scots did declare he would give satisfaction to the Scots; and in order thereunto he desired Commissioners to be sent over to *Breda*; These are the words of his testimony. Now Sir, this is but the single testimony of one man, and it is contrary to the testimony of that very man that brought over this letter: and if any man knew the substance of the copy of the letter pretended to be from the King, it must be *Alford* that brought it over. Certainly, none could know it better then he, and therefore for this man to be so strangely besides himself, and to forget himself, so as to say, This is the sum of the letter, when he that brought it saith the contrary, and did not know that this was the sum of it: this may seem strange, and I hope you will judge of the weakness of this testimony. Being ask'd whether he did not conceive this to be the copie of the Kings letter? he did me right in that, for he said, he could not tell whether it was the copy; but that *Alford* told him, he brought over a copie of the Kings letter. And Mr. *At. Gen.* was pleased to aggravate this of Cap. *Far* against me: Says he, the King sent over for Commissioners to treat, and accordingly at Mr. *Love* house it was agreed upon that Commissioners should be sent, and there were persons named. To this I say, that, God is my record, I never in all my life heard (as I remember) of any letter from the King to that end, that Commissioners should be sent over. And *Far* doth me right herein; for in answer to that question, *Was your Commissioners agreed upon?* he three times answers negatively. I do not perceive that he remembers himself so well in all his testimony, as in that particular. Being ask'd whether the Commission was agreed upon, he said it was not agreed upon by the company; and herein he did me more right then any man, for he gave my reason; for (says he) *the reason given was, because private persons could not give a commission.* And though he hath done me more wrong then any man, yet herein he hath done me more right then any man. Being further ask'd, *Was it not debated to send a Commission over?* *Drake*, he said, read a paper in the nature of a Commission; but it was not agreed upon by the company, because private persons could do no such thing. And a third time he says, *The Commission and Instructions were read in a company as Mr. Loves house;* (that he affirms, and that I do not deny) but not agreed upon. And further he said, he did conceive, to the best of his remembrance, it was in the name of the Presbyterian party of England; but (says he) *I cannot positively say it was so, for I did but only hear it read.* Then your Lordship asked him this question, *Did you say, that the Commission was not agreed upon, but that the Instructions were?* To this Cap. *Far* said, that *Will. Drake* undertook to draw up the Commission and Instructions; but yet, says he, *I cannot say, that they were either drawn up or sent.* Again, he says further (and herein hee doth me more right then *Adams* or *Alford* doth) *Adams*, he says it was not agreed upon; yet he saith thus, There was a Commission read for to treat, and so says *Alford*; But this man says directly, that this supposed commission was not to treat in the behalf of the Presbyterian party. And it had been a folly for private men to assume such a vain title to themselves: so that he says directly, upon your Lordships question to him, that it was not to treat, but to advise the Scotch commissioners, and the Ministers especially, to agree with the King upon the interest of Religion and terms of the covenant: but being ask'd, *Was it not in the behalf of the Presbyterian party.* He answered no, Being further ask'd: *Was there not an agreement at Mr. Loves house for a letter to be sent to the Queen?* Herein also this man doth me right: he said no my Lord; & yet he contradicts himself likewise, for being ask'd in the next question, what was the substance of that letter to the Queen? he answered the substance of the letter to the Queen was, that she should perswade the King to give satisfaction to the Scots in their just demands: now either he must hear of this letter somewhere else, or else frame a fiction to himself, that this was the matter of the letter, when there was no such letter in *verum natura*. The next thing he charges me with is, that I should say it was agreed that mony should be raised for *Maffey* & *Titus*; & he names the sum, he thinks 250 or 300l. And that I thereupon should particularly move him with this question, *C. Far, What will you do?* Now I beseech your Lordship & the Court to consider, that he doth not swear that I said, *we were agreed*; but it was agreed; & that might be the act of other men, & not mine; and in another place, he said they agreed; but he doth not say, That I said, *Wee agreed*; so include my selfe, but to that, that I should move him and say, *C. F. What will you do?* Truly this is but a generall question, and he himself did me thus far right; When I had leave from the Court to propound this Question to him, *Captain Far, Did I move you, or say to you, What mony will you give for Maffey or Titus?* He answered, he did conceive it was for that use; So that he proves not against me, that I moved for money for *Maffey* or *Titus*; but only that I should say, *Captain Far, What will you do?* and if you observe the words of the testimonie, they are these exactly. He tels you that he brought five pounds; for there is all that ever I am charged with: I am not charged

with lending a penny, but onely that fifteen pounds was brought to my house, ten pounds by Potter, and five pounds by this man. And he affirms, that he left this five pounds at my house, and herein I perceive a contradiction in the man, and therefore it is hard to determine when he speaks true, or when he speaks false: These are his very words; Mr. Love (says he) *ask'd me what I would do? And I did lay down five pounds upon Mr. Loves Table when severall persons were in the room.* And being asked, Did Mr. Love receive this money? he said he could not tell; but was loth to tell, who he thought received it; but in his last word save one that he spake in Court, (which made much for my advantage) he said, he thought I did not receive it, and God is my record, I did not; but he said, another man did, and named Captain Maffey. But the contradiction I observe is this: He tells you, he laid down five pounds when severall persons were in the room: and in the next question but one, being ask'd, Was Mr. Love in the room? Yes, My Lord, says he; but I cannot say any body else was there. So that therein the man evidently contradicts himself: and it appears he was under a very great fear, and even confounded by the many questions propounded to him. I ask'd him further, Did I bid you lay it down? Says he, *I cannot say that you bid me lay down the money.* Being ask'd, Was this way of laying down of money to prevent discovery? He said, he did it under that notion: But being ask'd by me, Did I bid you lay it down under that notion? He answered, he would not say I did. So that I neither directly nor indirectly did bid him bring money to my house, or lay it down when it was brought there; but other persons were in the room, and he conceives what person took it away: therefore I beseech you make a candid and fair interpretation of what I have said or done.

Being ask'd about the copie of the Kings leuer, that Alford says he brought over from Tism, whether I was in the room whilst it was read? he said, *I cannot say that he was there when it was read:* but he was there during some part of the communication; but says he, *I cannot say he was there at the reading of the Letter, Nor can I say he was present whilst the Narrative was read.* He observed I was often called away, and was absent; and says hee, *I cannot say there was any such thing done by Mr. Love.* And I ask'd him this question, Did I send, or agree to send Major Alford to Calice? He answers, he thinks I did not; and herein he falsifies his former Testimony; for he said Major Alford was desired in my house to go to Calice: And yet Alford swore he never was in my house till after he came from thence. But herein he doth me right too (though with contradiction to himself.) He said, it was agreed at my house that Alford should go; and yet now he says he thinks I did not agree to the sending of Alford.

Being asked further, Whether did I give consent to the sending away the Commission? he answered, *I cannot say Mr. Love was there when it was sent away.* And truly I may say, who brought it away, or who drew it up, and what was done in it, I cannot tell; there might be a thousand Treasons in it for ought I know; for I did neither own the reading of it, nor the sending of it; but did utterly protest against both. Being again ask'd, whether I agreed to the sending of it away? he answered, *It was agreed upon by all, That we could not send the Commission away.* When I ask'd him, Did I say to you, Captain Far, Will you contribute five pounds for Maffey and Tism? he gave this answer; (says he) *You ask'd me what I would do? so that I conceived it was for Maffey and Tism:* And he affirms, he laid this five pounds down in my house; but did not say that I received it; and in the presence of God I speak it, I never saw it nor, received it in all my life.

And thus with much acknowledgment, and blessing God, and thanking your Lordship and the Court, you have given mee leave to take a brief survey through the Depositions of the Witnesses, though they have been very large, and the Charge against me very high.

Now having spoken to the Depositions (before I shall crave leave to speak something concerning my self, and make humble Proposals to this Court) I shall add but one word, and it is this: I was loath, before I saw Witnesses face to face, to confesse any thing: I deem'd it against nature for any to confesse against himself, unless he could be sure his confession should not prejudice him; and I might have been guilty of my own blood, if I had confessed: for then, did the matter confest'd amount to Treason by your Law, my life would be at your mercy, and you might hang mee upon mine own confession: and upon that ground I went resolved to the Committee, and through the grace of God I resolved not there confesse a word nor title, till I heard what proof was brought in against me. And now I do ingenuously acknowledg, That there were severall Meetings at my house, That these persons met there, and that this Commission was read there: but I did utterly dislike it, and dissent from it.

And

And that I was present at the reading of Letters, either at the beginning, or end, or some part of them, I do acknowledge: And this I say, that I was ignorant of the danger that now I see I am in. The Act of the second of August 1640, doth make it Treason to hold any correspondence, or to send Letters, though but in a way of commerce, into Scotland; let the matter of them be what it will be: Now herein my Council acquaints me with my danger, that I being sometimes present when Letters were read in my house, am guilty of a concealment: and as to that I do humbly lay my self at your feet and mercie. But as to Treason, I do not know any personall act of mine proved against me, that brings me under any Act of yours. And thus having briefly spoken concerning the Charge in general, and concerning my accusers, and having briefly surveyed their Testimony, I shall humbly crave leave to speak something concerning my self, and I shall be very brief in it.

Concerning my self, it is needfull I should speak a word: I would not stand under misrepresentations, to seem to be what I am not. I am presented unto some, as if I were a Malignant, an Apostate from my first principles, a mover of sedition; and what not but what I am? Wherefore I am constrained to speak a word in my own vindication; and I shall make the Apostles apologie, *I am become a fool in glorying; but ye have compelled me.* I count it never lawfull for a mans own mouth to praise him, till another mans mouth accuses him; and then he may without vanity be his own vindicator. What I shall say of my self, the Lord knows it is not voluntarily, out of an affected ostentation, but by compulsion, for a necessary and cleer manifestation of my Principles and Practices now suspected. As touching Malignity, I hate both Name and Thing: and, as Cardinal *Farnesius* said of himself profanely, That if he knew any part of him infected with Lutheranism, he would cut it off; and cast it into the fire: That I can say truly, That if I knew any part of mee infected with Malignity, I would cut it off with the pruning hook of mortification, and by an ingenuous retraction before you all this day. God is my witness, I never drove a Malignant Designe, I never carried on a Malignant interest, I darest both; I still retain my old Covenanting principles, from which through the grace of God I will never depart for any terror or perswasion whatsoever. When I look upon all the Vows, and Covenants, and Declarations, and Protestations of both Houses of Parliament, I do finde a suitableness between my judgment and them, and am not conscious to my selfe of any thing that I have done in opposition or contradiction thereunto: And therefore I may say as *Jeremy* did when he was accused in the like case, of making defection to a contrary party, *Jerem. 37. 13, 14. Irshab said to Jeremias, Thou fallest away to the Chaldeans: Then said Jeremias, It is false, I fall not away to the Chaldeans.* So, if it be charged upon mee, that I am fallen from my first Principles, or that I am fallen to Malignity; I say to any that shall so accuse me, It is false, I fall not away to Malignitie, I do retain as great a keennes, and shall whilest I live, and as strong an opposition against a Malignant interest, whether in Scotland, or in England, or in any part of the world, against the Nation where I live, and have to this day, as ever I did in former times. I am no incendiary or evill Instrument, to divide the Nations one from another. God knows, the grief of my heart hath been for the divisions, and the desire of my soul hath been for the union of both the Nations: and if I had as many lives as I have hairs on my head, or as much blood in my veins as there is water in the sea, I could count it all well spent to quench the burning that our sins have kindled between the two Nations. I have all along engaged my estate and life in the Parliaments Quarrel against the Forces raised by the King: My appearing in their cause was not from any aim at profit, but out of a perswasion of conscience, and sense of duty. I may speak it as *Paul* doth it of himself, *I was in labours more then they all.* I speak it without vanity, I was, according to my obscure Ration and mean condition, in doing and giving in the Parliaments Quarrell, more then many. Many gave out of their abundance, but I out of my want: and as *Christ* spake to the widow who gave two mites, that *she gave more then they all; for she gave all that she had, even all her living:* So did I; though I gave my mite, yet I gave my all: And I did not only deem it my duty to preach for the lawfulness of a Defensive war, but, unlesse my Books and wearing apparel, I contributed all that I had in the world; and that was no small summe, considering the meanness of my condition. And I have at this day a great summe due to mee from the State, which is still kept from me, and now my life endeavoured to be taken from mee. And yet for all this, I repent not of what I have done; though I could from my soul wish, That the ends of that just VVar had been better accomplished: then should we have been happy and united among our selves, and honoured among the Nations round about us. I am so far (I say) from repenting of what I have done, both by do-

ing and contributing, and suffering in the Parliaments Quarrell. That were it to do again upon the same unquestionable Authority for the same declared ends, and against the same Malignant persons, I should manifest as much readinesse of mind to engage according to my measure, as ever I did.

And thus I have declared my selfe touching my Principles, in these particulars; I shall now crave leave to expresse my selfe a little touching my sufferings; and then to make but a few humble Propositions, and so cast my life into Gods hands and yours. Touching my sufferings; I may say, that my whole life hath been a time of affliction, either of body or mind; God sees my heart to be a tuffe and knotty piece, that it needs so many blows to break it; I may say with the Psalmist, *I have been afflicted from my youth up*, and from my youth up I have met with opposition. From the Prelates, being persecuted by them, meerly for conscience sake; it is near twenty years since I was cited to the Bishops Courts; I have been often troubled for hearing of Sermons, and discharging other exercises of Religion, which were an offence in those dayes: When I was a Scholer in Oxen and Master of Arts (I do not speak it out of vaine ostentation, but meerly to represent unto you, that what I was, I am, and what I am, I was) I was the first Scholer that I know of, or ever heard of in Oxen, who did publicly refuse in the Congregation House to subscribe unto those impositions, or Cannons imposed by the Arch-Bishop touching the Prelates and Common Prayer. And for which, though they would not deny me my degree, yet I was expelled the Congregation House, never to sit as a Member among them. When I came first to London, which is about twelve years since, I was opposed by the B. of London; and though I was called as a Lecturer to *Ann Aldersgate*, yet it was near three years before I could fasten upon any Lecture. After this, about the year 1640, or 1641, I was imprisoned in *New Castle*, meerly for expressing my self against the errors of the Service-Book, and was removed from prison there, by a *Habeas Corpus*, to this place: And in this Court of Kings Bench, I was acquitted. After this, about the beginning of the Wars between the late King and the Parliament, I was the first Minister that I know of in England, who was accused for preaching of Treason and Rebellion, meerly for maintaining in a Sermon in *Kent at Tenterden*, the lawfulness of a defensive war, at the first breaking out and irruption of our Troubles; but was then publicly acquitted in a Court there, and recovered costs and damages of my Accuser. After this I had a little breathing time, whilst the two Houses of Parliament were in power; only I was once complained against by the Kings Commissioners at *Uxbridge* for preaching a Sermon there; I did not know that I should preach there till the Psalm was sung, and did only preach a Sermon which I had preached the day before at *Windor Castle*; I was, I say, complained of by the Kings Commissioners to the House, for that Sermon; but within three weeks I was acquitted and discharged, by order of the House of Commons. That Sermon is much spoken of because it is so little seen, it is so obscure a piece, and many imagine, as if the keenesse of my affection was blunted from what it was in that Sermon; But I declare unto you, that I come up to this day to every title of that Sermon: I hear it is lately printed, and if it be printed according to the first copy, I will own every line of it, as that to which my heart and judgement concurs to this very day. After all this, since the late change of Government, I have been three times in trouble; I was once committed to custody by, and twice cited before the Committee of Plundred Ministers, but there was no sufficient proof against me, and so I was discharged.

But now last of all, this grear and last tryal and trouble is come upon me: I have been kept severall weeks in close Prison, and now I am arraigned for my life; herein is my grear comfort, even that which was the Apostles, *God that hath delivered me, he doth deliver me, in whom I trust* 2 Cor. 1. 10. *that he will yet deliver me.* And that that shall be made good to me; *He shall deliver thee in* Job 5. 19. *six troubles, yea in seven there shall no evil touch thee.* As *Cato*, he was accused thirty two times by the unkind State whom he faithfully served, and yet after thirty two times accusation, his innocency and uprightness brought him off. Why should not I be confident in my God, who have had a life time of experience of his care and love towards me. It is not the danger of my life troubles me; I am a sickly man, and I know a disease will ear long kill me, whatever you do with me; but this grieves me more; That I should suffer from their hands for whom I have done and suffered so much in my obscure station, and according to my weak measure; had it been an Enemy had dealt thus by me, and made such an eager prosecution of me, and such high aggravations of that which in the simplicity of my heart I have done, it had not been so much, and as I told the Committee when I was exami-

examined by them (who charged me with Jesuisme and non-ingenuity, because I would not confesse against my selfe and others) that though I honoured them as private Gentlemen, and should acquaint them with what my self had done, when it should not be a share to me; but when they shall apprehend me by a warrant for Treason, and examine me in order to a trial for my life, In no Judicature in the world, will I confesse a word, till I first hear what will come in against me. Now as I told them then, I never wrote letter, nor received letter; nor sent, or lent money to any person of the Scottish Nation. Now that I should meet with this hard measure; to have the most ridgid and severe interpretation put upon all my actions, to be look'd upon with so jealous (I might say with a worser) eye, that have in my measure ventured my all, in the same quarrell that you were engaged in, and lifted up my hands in the same Covenant, that have took sweet counsell together, and walk'd in fellowship one with another; That from these I should have such hard measure, This, this troubles me greatly; had I been so dealt withall at the Juncto at Oxon, I should not have been so troubled at it; but to be dealt so with at Westminster, this is that at which I stand amazed: yet blessed be God, I am not afraid; My Conscience doth not tell me of any personal Act of mine proved against me that brings me under any of your laws as to Treason. And thus having exprest my self, concerning my charge, and the witnesses, and my self. I shall now in the close of all say (what ever tortured collections, or inferences, are drawn from my practices, and however Lawyers may aggravate those things that in part have been proved against me; yet I do declare in the presence of God, that what ever I have done, in the simplicity and integrity of my heart, I have done it; and did deem it to be consonant and agreeable, both to my conscience, and to the Protestations, and Covenant I have taken: and I have done nothing out of animosity or from a spirit of revenge; and thus I have done concerning my self. I have only a few humble proposalls to make to your Lordship, and the Court; and then I shall leave all to Gods determination and yours. To you that are my Judges, I humbly crave this of you, and I do it upon your Lordships words, the first day of my appearance here. When you were pleased to deny me Counsell, you said you would be Counsell for me; and I beseech you be so, for you are Judges both of matter of law, and matter of fact. I may make use of that passage, *Proverbs 31. 8. Solomon says there, that rulers must open their mouths for the dumb, in the cause of all such as are appointed for destruction.* Truly, My Lord, I am as a dumb man before you; I dumb in matters of Law, I cannot plead one word for my self. I beseech you be as *Solomons* Rulers were, and open your mouths for him that is appointed to destruction; you who are my Judges, be my Advocates, my life lies in your hands. And then I beseech you let me make this humble motion to you, That you would not count any thing that I have done to be out of animosity, or stoutnesse of Spirit; Truly, nothing but Conscience could carry me through all my sufferings; I could not leave such dear relations that God hath given me, and such a loving people, and comfortable livelihood, as any Minister hath within the walls of London: Nothing but conviction of conscience, can carry me another way: And till Conscience be fully satisfied, I cannot stir one step.

The next thing I beg is to beseech your Lordship and the Court, to put a candid and fair interpretation upon all that I have done, or that by witness you have heard; that it was no Malignant design, though I do not own the management of any design: I never writ letter, nor sent letter to any of the Scottish nations; yet thus far I own the thing, that it was agreeable to my judgement and Conscience: For I thought the interest of God, and Religion, and the good of the Nation would be more advanced, if the King went into Scotland upon Covenant terms, then if he should fall into the hands of the Irish rebels, or offer this Nation to the Turk, or Spaniard, or any other to come in and make a prey of it. I did Judg it would be a foundation-laid of great troubles and blood, if he were not received by that nation. And though I did not, and do not in the least own either the Commission or Instructions, or the way of management of that business, yet I confesse the agreement between the King and Scots I desired, and deemed it my duty upon this ground, one clause of the Covenant being, to seek the union and good of both Nations; and those who endeavour the contrary are declared by the Covenant to be Incendiaries, Malignants, and Evil Instruments, who not only divide the Kingdoms one from another, but divide the King from his people. Now they declaring him to be their King, according to my apprehension I thought it agreeable to my Covenant, to pray and desire, as a private man, and no more, for an agreement between the King and them, upon those terms consistent with the safety of Religion, and the terms of the Covenant.

And thus I have opened my heart to you. The favourable interpretation I humbly beg of you

you is this, That things might not be taken in the worst sense: *Non est rem, nisi mens sit rea*: He is not guilty, unlesse the mind be guilty, I heard your Lordship say so at Guild-Hall, as I remember.

The Lord knows in the uprightnesse of my heart, I have done, what I have done. It is a Maxime in the Law (I have read it in Divinity books) *Ampliandi sunt fauores, et in parte benignior interpretatio facienda*; Favours are to be amplified and enlarged by Magistrates; but in punishments, the most benigne and favourable interpretations must be made. Now of my Actions the barrest interpretations are made; I have a Charge laid against me, which I deem (and as my Councell tels me) to be rather a flourish in Law, then reality of matter.

I stood amazed when I heard the charge against me, I thought it had rather been against some other man then against me. As if I should send to the Queen, *Piercy* and *Germin*: herein I did rather venture my life upon a Tryall, then to lie under all that Oblouie, which that charge did lay upon me. Therefore I again beseech you put a fair and candid interpretation upon what is proved against me.

I remember a phrase, *Summum jus est summa injuria*, to be over just, is to be injurious. *Be not over righteous*, may refer to Courts of Judicatory. Herein I acknowledge, that my not revealing what my accusers have done, this layeth me under the fault of a concealment, for which I lay my selfe at your feet.

The next humble request I have to make, is this, To intreat your Lordship and the Court, that you would not hearken to any politick suggestions, that may be laid before you: I know under what disadvantage I lye, that am the first Minister in England tryed for Treason, in a businesse of this nature, and what a prejudice this is to me, to make an example upon.

The first Suggestion that I humble intreat you would not hearken to, is; That it will not be for the honour and interest of the State, if I be not condemned; Truly it is for the honour of the State for you to do Justice, If you have found, that I ever writ letter, or sent, or received letter, or lent money; if in these regards you have found me within your Acts, spare me not: But if I have been onely present at the reading of letters, and have been silent at what others have done; therein I lay my selfe at your mercy, to shew me favour. It was a suggestion to Pilate, *If thou sparest this man, thou art no friend to Caesar*; and so if you do not condemn me, you are no friends to those who commisionare you; but be friends to your selves and families, and take heed that you bring not guiltlesse blood upon you.

And here (and so I shall have done) in the close of all, I do acknowledge, that in many particulars, as touching not revealing (I say not as to personall things, nor do any prove it against me) I do fall within your acts, as to the censure of a concealment; and herein I humbly beg your mercy. And however J may be judged to be a man of a turbulent and unquiet spirit; yet those that know me in my relations, will not say so of me; and my people, over whom God hath called me (I think) will say, I am a man who desireth to live quietly in the Land: But however my spirit and principles are questioned, yet J resolve by the grace of God to lead for the future a quiet and peaceable life, in all godlinesse and honesty.

I have but one word more to close all J have to say for my self (for J have made no plea in Law; in those matters J am as a dumb man, and cannot open my mouth) and 'tis this, The Charge and Depositions lie before you, and J will but lay this before you also, that if so be my fact should deserve death, which J beleeve it doth not, and J hope you cannot finde me under your own Acts as to Treason; yet if you do censure me rather upon a politicall interest, then from the merit of the fact, the Scripture accounts not that Justice, but Murder. *Jehu* put to death *Ahab's* sons, and that by the command of God; but he did it upon a politicall interest, to establish himself in his new gotten Government: and when God reckons for this, he sayes, *I will avenge the blood of Jezebel upon the house of Jehu*. To do any thing upon a politicall interest, though the fact may deserve death, the Scripture counts this Murder, not Justice.

And I beseech you, let me suggest one thing to you, though J am a worm and no man, and deserve not to be regarded amongst the children of men; yet what I have done and suffered, let it be a little thought on by you: And let mee urge that of *Absar* the Priest, he did an act that was not justifiable, and saith Solomon, *Thou art worthy of death*; but I will not at this time put thee to death, because thou barest the Ark of the Lord God before David my father, and because thou hast been afflicted in all wherein

my father was afflicted. I leave it to your own consciences to make application.

Many things else might be suggested against me, and all to exasperate and exulcerate your minds against me, to make you with less regret of conscience to passe a dolefull Sentence upon me; which I hope you cannot, and for the fear of the Lord you dare not: but if you should, (and so I have done) I will say to you, as *Jeremiah* did to the Rulers of *Israel*, *As for me, behold I am in your hands, do with me as seemeth good and meet unto you: but know ye for certain, that if ye put me to death, ye shall surely bring innocents blood upon your selves*: But I will say as the Apostle did, *I hope better things of you, though I thus speak*. And thus I commit my self, and my all, unto God and to your judgments and consciences.

M. Atourney General's present Reply to M. Loves Defence.

M. Atourney Gen. MY Lord, you have heard him say much, and it had been much better for him if he had said less. My Lord, when men go out of the way of their own talling, they very often erre; and truly I may attribute much of M. Loves confidence to his ignorance, My Lord, to his ignorance of the Law; and when men meddle beyond their own bounds, they doe transgress. M. Love hath made you a continued Speech; My Lord, I do finde the old Proverb commonly true, *In multitude of words there wanteth not evill*: And should I say nothing against M. Love, my Lord, he hath said enough against himself, in that that he hath now repeated even to his own condemnation in that which he acknowledgeth, my Lord, (I cannot say ingenuously, though himself hath said so) to be rather a misprision of Treason and a concealment. My Lord, acts of concealment are not so long continued, they have not so long continuance: And my Lord, you very well know (for the satisfaction of the Gentleman at present, and some else that hear me) that he that beares a Treason, (for I do go now a little in his own way) he that bears a Treason, must not look back before he go to the Magistrate and reveal it, and if he be at the Plough, he must leave his Plough; if this Gentleman were in his Pulpit he must leave his preaching, he that knowes a Treason, must go presently and reveal it; there must be no repetition of Treason, My Lord, M. Love: my Lord, will be mistaken in that. But truly, my Lord, I was very sorry, considering the condition M. Love now stands in, to hear those expressions from him that he hath made to you in relation to the past and present Authority; my Lord, I am not willing to repeat them, M. Love must hear of it another time; truly, my Lord, here is little of ingenuity (all men will believe) in this Gentleman, that hath now laid it for a principle to himself, and all that shall hear him (and I think it not to be so Christian, so ingenious) not to confess any thing any time; but that is ingenuity that is proved, that he will confess, and that is a high piece of ingenuity, that those things that are proved he will ingenuously acknowledge; my Lord, I do not take that to be ingenuity neither in my Law, nor I believe in his Divinity will it be. My Lord, there hath been a great deal of care and pains taken by M. Love to take in pieces the evidence, I shall not undertake now to joyn them together, but in convenient time I shall, I doubt not, for the satisfaction of the Court, and their judgements, who I must say, have been threatened by the Gentleman; and my Lord, I hope for the conviction of himself. My Lord, he knowes there are shrewd pieces against him that he hath acknowledged; but he would take them off one by one, but when they are put together, they will not be single evidence, nor single testimony, nor single facts, but a continued reiteration and repetition of Treason, a continued and Series of time. My Lord you are pleased to observe that himself doth appear from 1648. to 1651. so that in 1648. 1649. 1650. and 1651. in all these years my Lord, there hath been this constant repetition and transacting of Treason.

My Lord, I learn from him, and 'tis very true, — It is not good dallying with holy things, nor is it with States and Common-wealths, it is very bad dallying with them, those that flutter there will burn their wings at last; and it is not Quirks of wit, nor strains of sense or non-sense, will, my Lord, clear these things, it will not do it, my Lord. My Lord, he hath desired you will not hearken to private examinations, my Lord, I have said so too, and there hath more been offered to you; but that which hath been publike and *viva voce*, all have been so. But surely, my Lord, I could wish this Gentleman, and all others of his profession, would meddle in their own Sphere, and not to walk out of that to come and teach Courts what they should do, to teach the Magistrate what is his duty. My Lord, I do hardly think it belongs to them ever in the Pulpit to do those things: But to tell us we must not examine before-hand, and ask questions in private: My Lord, we cannot then be prepared for Felons and Treasons: And my Lord, I say, this confidence is much from his ignorance: for these things

are very familiar, and must be continued to be done; so that these things are not well broached by him, and I do think he will say at last he understands not himself; and those (I hope) that hear, my Lord, will say, I do not use it; for, my Lord, I must say, it must be otherwise in all well-governed Common-wealths. My Lord, he hath not denied, but acknowledged Meetings at his house more than once, twice or thrice: And truly, I did expect from this Gentleman that he would not have continued those fearful imprecations of calling God to witness, that he did never write Letter, nor send Letter, nor lend money. I had thought he would not have gone upon these equivocations; Did he never move other men to write? Did he never move others to lend money? It is not to say, this, and this I have not done; but I had thought he would have cleared himself totally of any guilt that way, either in relation to receiving, or hearing Letters read, or lending, or receiving money, or moving for money. My Lord, to put it upon a particular Case, this will not blinde the eyes of Justice, but you will be able to see it: He is pleased to say, my Lord, he will not lay it to the badness of the Witnesses consciences, but to the badness of their memories; my Lord, I hope in conclusion their memories will appear to be right, and some bodies conscience else to be bad. And, my Lord, for to hear this said by this Gentleman that is a Minister of the Gospell, that it is a crime for these men to acknowledge their offences, this is strange; I had thought the first step to repentance had been confession, and that it had been no offence for any man living that hath committed a fault, or that thought he had committed a fault, to acknowledge it. In my Law and Divinity I thought it so, and I have not learned otherwise; and shall this Gentleman take exceptions, because these Gentlemen who have thought they have done amiss, have acknowledged their errors, and have craved mercy? My Lord, I must say thus, if any deserve mercy, it is those that doe acknowledge their offences, and crave mercy, and are sorry for them; & not those that are obstinate, & bid defiance to justice, prove what you can, I will confess nothing, that is not so conscientious nor Christian a way: And for the Witnesses, I do wonder that Mr. Love, of any man, should find fault with them; I cannot say they have taken sweet counsell together, but I shrewdly suspect they have taken very bad counsell together; these Gentlemen are of his own choice, and of his own companions, and those that were conversant with him; and if you please to observe, at every word *Will Drake*, me-thinks that is a word of familiarity; but my Lord, for these, they were his companions, and whether I might say more, his household friends or guests, but sure they were in his house very often, and were private with him, and in his Chamber and Study, and to cover all these actions, and these treasonable practises, and Letters, and Designs, here they must come to hear news, and this must cover it all; they come for nothing but news, and our contributions must be for charitable uses, but you must not ask why or wherefore we lend money, but it is for charitable uses; neither God nor man will be blinded in these things, and if these fig-leaves be sown together, it will neither cover nakedness nor treason. My Lord, M. Love hath said, (and in that given judgement against himself) that either to treat or advise with the King of Scots in Scotland, he detests them both: My Lord, if he be guilty of both, then I hope, he doth detest and renounce himself, and then I think, he hath laid your judgement somewhat; his own having past first, yours will easily follow. My Lord, he confesses, that for this act of the 2. of August, 1650. he was ignorant of it, and of the danger of it. My Lord, he very well knows that ignorance is no excuse, the Act is a publike Act, and hath been long printed, now ten moneths since, himself saith: And yet me-thinks I cannot reconcile that, (that he that goes to make others differ) that he knew not of this Act, and yet *Starks* the Scotch Agent was banish'd upon this Act, and there was a contribution for him for his going away, the same Act that doth the one doth the other. My Lord, he hath been pleased to cite a laying of Cardinal *Farnesus*, *That if he knew any part of him infected with Lutheranism, he would cut it off, and throw it into the fire*; and so can he speak truly of himself, he would do if he knew anything of Malignancy by himself. My Lord, the question between him, and us is, what is Malignancy, I doubt we differ in that, I doubt his sense of Malignancy; I am sure by some words I shrewdly ghes at, that I count that malignitie, and I hope all this Court, and all that hear me count that malignity, that I doubt his judgement leads him not to it, so I doubt we differ upon that.

My Lord, he hath said he was never an Incendiary, or evil instrument: I wish there were not cause for you to think otherwise: But surely the Gentleman hath made large imprecations, and hath spoken much for himself; but (I believe) he knows there is so much justice here, that he expects not to be believed in what he says. If it were enough to accuse, who should be innocent? And if it were enough to deny, who should be guilty? he doth not expect to be believed for his word *certainly*; for

now he knows he stands in another capacity, and as things are alledged and proved on both sides, so he is to be believed and no otherwise. My Lord, he hath been pleased to reflect upon my self in many particulars, yea and the Court knows in what a capacity I stand here, as a servant to the State to doe my duty faithfully, and I must doe it, and yet I must say, it doth not become me to prompt Witnesses; that word, my Lord, was not well spoken. He is pleased to say in the commendation of himself, that he hath a place in *London* where he hath a very good Congregation, and a very good competency of maintenance, and I heartily wish he had thought so really, and had kept himself singly to that; I do not think he will say that in the duty of his place, as a Minister of the Word, to preach, to instruct, to exhort, rebuke, reprove his people, or any under his charge, that ever the State did interpose or meddle with him, neither the Parliament nor the Common-wealth; then for Gods love, my Lord, why should this man interpose or meddle with the State? Had you not enough to doe in your own calling? Had you not charge enough lying upon you, but must you be going abroad, and put your sickle into another mans harvest? I will say, the State did never trouble the Gentleman in his duty, he did go on with as much peace and quietness as himself could desire, we interrupted not him, let him reflect upon himself, whether others have dealt so kindly with him; when had he that liberty that now he hath had? You may be pleased to observe, himself saies twelve years ago he could not in three years in *London* get an admission to be a Lecturer, and when he spoke in the Congregation-house at *Oxford*, he was expelled there; he hath had no such measure here: doth kindness provoke him to these things? those that sin against kindness are the highest Transgressors. What provocation hath this Gentleman had in his Ministry, that he could not follow that, and have let the Parliament and State alone? Doth he not receive breath here to live, and his livelihood to sustain himself and his relations? Why should you interpose to disquiet your self and the Common-wealth when they did not provoke you? And let all judge whether this should not convince you; and let me say thus much, that you have dealt foolishly, and have gone beyond your bounds, and have not kept within your limits in what you have done in these things that you have acknowledged.

My Lord, I speak this, that those may hear now that may not hear the other; for that which M. Love hath said, we must have some time to recollect, and to speak in the vindication of the proceedings of the State against this Gentleman, which though I think it needs not much, in respect of the Court that hath heard him say so much and confesse so much as he hath done, yet for the lenitie of the State, that hath moved them to take care of their own preservation: And I would not do it but that he hath stood upon all terms of defiance with justice and majesty, and you have heard from a fellow Minister what he did the last day, and the principles he urgeth this day, which let me repeat again, there will be no living in society, if these things be let alone. My Lord, it is much insinuated by him, that his blood will be upon you and the Court, I would he had thought upon blood before these things had been so transacted by himself, I am afraid (between God and his own conscience be it, and those that have had correspondence with him) that much of this blood that hath been spilt in *Scotland*, hath been much by their means; you hear him say, that what was desired by them (and in order to what it was) was, that the King of *Scots* might joyn with the Scottish Nation, and not go to *Ireland*, that was his conscience: I do not know, his conscience led him to meddle with those things, to meddle with State-affairs. But my Lord, if it be so, and this hath been brought on by them, that one hath encouraged the King to joyn with the *Scots*, and the other hath encouraged the *Scots* to joyn with the King by hopes of parties here, which he himself acknowledged now, was undertook in the name of a Presbyterian party, though I think and do believe it, for very many honest Presbyterians, that they would spit in his face if he should say it of them; but I say these doings hath occasioned the shedding of much blood, and a great deal of variance between the two Nations, and the Lord knows when it will end. But my Lord, as he concluded for himself, you will be pleased, my Lord, to give me leave (though not in that way of conjuration as he hath done) to say for the State, I shall not prevent your judgements; but it is better that one man, than a State should perish. And if this man be guilty of the Treasons proved against him, I believe himself will judge, he had better perish and suffer death, than the State should perish. All these actings of his have been underminings of the State clean through, carried on very closely and covertly in disguises, and not discovered; but he that dances in a net will be catch't trapping at last. My Lord, before you give your judgment, you will consider that justice to the Common-wealth—

So my Lord, I have added what my bad memory (I hope not bad conscience) hath repeated to me, as might give some answer to what he hath said; but

through all and every one of the evidence so exactly, and hath had three dayes given him for it: my Lord, I shall ask but one for my self, and for those that are the Councell of the Common-wealth. My Lord, this is all I shall say at present to you, and shall say no more till next meeting.

Judge Keeble The Lord President speaks after the Attourney-Generall: the very beginning of his Speech was not heard, he beginning very softly.

L. Pref. But again in this point, for the Presbyterian Government, if it be rectified, doubtless it tends to the peace of this Nation, and all places, but not with a Scotch limitation, I deny that; nor limited by a Scotch Covenant.

The next thing is this, because you often fall upon distinctions of the Law, and that you are ignorant of the Law; the more to blame you, that profess the learning of the Law of God; for there is no Law in England, but is as really and truly the Law of God as any Scripture-phrase that is by consequence from the very Texts of Scripture; for there are very many consequences reasoned out of the Texts of Scripture; so is the Law of England the very consequence of the very Decalogue it self, and whatsoever is not consonant to Scripture in the Law of England, is not the Law of England; the very books and learning of the Law; whatsoever is not consonant to the Law of God in Scripture, or to right reason which is maintained by Scripture; whatsoever is in England, be it Acts of Parliament, Customs, or any Judicall Acts of the Court, it is not the Law of England, but the error of the party which did pronounce it, and you or any man else at Bar may so plead it; and therefore to profess you are knowing in the Laws of God, and yet to be ignorant of the Lawes of England, when yet the Lawes of England be so purely the Lawes of God, as no Law in the world more practicable at this day, for you to be ignorant of them, it is not to your commendation, nor to any of your profession.

Then Sir, for your going on in these wayes. The Court with patience hath heard you (I think) two hours, or thereabouts, and you have done nothing but anticipated the Court; What? do you think they have not understandings, and judgements, and consciences? They would have done it, they would have examined these Witnesses precisely, and would have compared them; but you have taken up all this time by way of anticipation; and in a Rhetoricall way to do it! let me tell you, that Orators among the Heathen have been the greatest Incendiaries, and those Orators in Christendome that do not set their judgements upon right ends, they are the most unworthy men in Christendome; for there is no heresies, murders, traiterous and treasonable practises and attemptings, and all the highest wickednesses that ever were committed in Christendome whatsoever, or in this Nation in particular, but they have had some of that profession that have called themselves Ministers of Jesus Christ, as the Jesuits of Jesus, and the Priests of thoses; and all these things and high actings have still had some tincture of your Coat in them: Therefore it is not your Office can excuse you; your Office is sacred, as other Christian Offices are, and you are no more Divines by your Office; but you are to remember, and you must know, that Christian justice that you teach in the Pulpit, to act it in the Court is of a higher nature than preaching is; and therefore in this, that you should advance your profession beyond the Judicatories of this Land, know, that Judgement and Justice is the highest Religion in the world both in Christendome and out of it: And this Sir, we would have you know, that Lawyers Doctrine tends to this, and I hope hereafter you will be more obedient and better vers'd to know these grounds of the Laws of England, by which now you are called here. I shall say no more, but take advice with the Court about you.

The Court adjourns, and M. Love is commanded away.

The fourth Dayes proceeding June 27. 1651.

Mr. Hall The first Councell for the Common-Wealth.

Mr. Hall. **M**Y Lord, The Prisoner at the Bar, Mr. Love, stands impeach'd before your Lordship of High Treason, which impeachment hath been read before your Lordship and the Court. My Lord, by that he stands charged with High Treason, with severall offences of High treason; That he in the years 1648, 1649, 1650, and 1651, with *William Drake, Henry Fermin, Henry Piercy, John Gibbons, Edward Massey, Syllas Tism, and others his Accomplishes, did Traiterously, Wickedly, and Maliciously Confederate, Plot, and Endeavour to stir up a New and Bloody War in this Nation, and to subvert the Government now established, without a King and House of Lords.*

My Lord, That in the same years, since the death of the late King, he did with other his accomplices, endeavour to promote *Charles Stewart* to be King of England, contrary to an Act of Parliament, before that time made, in this Nation.

My Lord, That in the same years, he and his accomplices did Traiterously and Maliciously aid and assist the Nation of Scotland, to the end that they might invade this Common-wealth; and hath adhered to the forces raised by the enemies of this Common-wealth.

My Lord, That in the same time, between the month of March, and the first of June, this present month, he hath Traiterously and Maliciously held and maintained correspondency, and intelligence by Letters, Messengers, Instructions and otherwise, with the enemies of this Common-wealth; and to the prejudice of this Nation; And in particular with *Charles Stewart, and the late Queen his Mother, and with Jermin, and Piercy, and other persons of Council abiding with Charles Stewart.*

My Lord, That he hath likewise held correspondency and Intelligence with the Scottish Nation, prejudicial to this Common-wealth, and to the end they might invade and bring a Bloody Warr upon this Nation.

My Lord, These Treasons and Traiterous and Wicked Practices of the Prisoner at the Bar, were and are to the apparent hazard of the publick Peace of this Common-wealth, and Free State, and the Parliament and People of England; and in contempt and violation of the Lawes of the Land, and contrary to severall Acts of Parliament, in such Cases made and provided.

My Lord, There hath been severall Witnesses, and Proofs of these particular Charges against the Prisoner. And, my Lord, I do conceive that there hath been such proof made, that in your Lordships judgment, he will appear to be guilty of all these particular actings; But, my Lord, I will not enter upon the proof, only make a Summary Relation of the beginning and continuance of this Plot and designe.

My Lord, This Plot did begin very suddenly after it pleased God to take away the chief enemy of this Nation. The King died in January 1648, and this Plot began in February, the very next month following: And in the same month, my Lord, the Scots Nation did proclaim *Charles Stewart* King of Scotland; and they did not stop there, but proclaimed him likewise King of England; and then, my Lord, this Plot began here; for in the month of February, the next month after the King dyed, the meeting was at the Swan at Dow-gate, where were severall of the Correspondents at that time; as *Drake, Huntington, Tism, and others*, and the end of that meeting was to contrive a way that they might agree the King and the Scottish Nation; that was the end of their meeting at that time.

My Lord, Within a few dayes after that, they met again all these severall persons, at the White-Hart in Bread-street, and to the same purpose; and at length it was resolved to make their addresses to the Queen, and to *Piercy, and Fermin* (first it was the King himself) for a compliance between the King and the Scots; letters were sent accordingly, and severall meetings, and severall returns of messages were had of them: My Lord, at length it was resolved, that they should send Messengers to

the King at *Ferisy*, and agreed upon one *Tism*; and they raised money and gave it to *Tism* to undertake the journey. My Lord, *Tism* accordingly went in the month of May, One thousand six hundred forty nine; and returned in August following. After he had done his negotiation there, he returned to *Calice*; but being afraid that this wicked plot was discovered, by reason of letters that were intercepted, he durst not come into *England*; but sent letters to desire some correspondents might be sent to *Calice*. My Lord, all this time I do not finde that the proof discovers the prisoner at the Bar to be any actor, or present at any meeting hitherto: But when these letters came from *Tism*, then the letters were brought to Mr. *Love*'s house; which is the first time I finde him by proof to be present. The letters were read in his house, and in his Studie, as some of the witnesses say, that there were present: and it was then agreed, my Lord, that *Alford* should go to *Calice* to *Tism*. My Lord, accordingly he went, and there *Tism* did communicate unto him the Affairs that pass'd at *Ferisy*: Within four or five dayes after, *Alford* returns again, and where should the meeting be but at Mr. *Love*'s house again? where Mr. *Love* and divers of the accomplices were in his house, a letter from the King was read; the Dyary, the Narrative from *Tism* likewise was read there; and there was the consultation what should be done, and what further course they should take to joyn the King and the Scots together. My Lord, afterward they did agree that there should be some sent to treat with the King at *Breda*; The Instructions were drawn in Mr. *Love*'s house, (I think one witness says so) and Mr. *Love* present; money was raised, and Mr. *Love* himself did speak to one of the witnesses to raise money, which was *Far*: *Far* accordingly did bring in five pounds, and laid it down upon Mr. *Love*'s Table, Mr. *Love* being present then in the room.

My Lord, I shall not trouble you with the relation of more particulars; But my Lord, I conceive, that Mr. *Love*, doth upon these proofs stand guiltie of endeavouring to promote the King to be King of *England*: For, my Lord, what should be the end of uniting the King and the Scots together, after that the Scots had proclaimed *Charles Stewart* King of *England*, but that they might come in a warlike manner to invade this Nation, and to set up his Authority as King among us?

My Lord, I conceive (I shall submit to your Lordships judgment) that he is guilty of Intelligence from a profess'd Enemy. The intelligence is (my Lord) that divers letters were sent, and these letters were read in his presence, as himself doth confesse he was at the reading of divers letters, and yet did not consent to them; and thereupon makes it as it were but misprision of Treason. My Lord, I conceive that this is apparently Treason: For if letters were sent to one person, and did occasionally come into another mans hand, and he conceale them, being not sent to him, There peradventure it is but misprision of Treason. But when there are sent to these particular persons letters from the King and Scots, and divers persons in hostility against the Commonwealth of *England*, and received by the Confederates in *Master Love*'s house, and there were read and debated, though they did not agree to some particulars, yet they are Actors: They are ——— in the very intelligence it selfe; and did likewise return severall letters.

My Lord, this Intelligence was with the Scottish Nation, which truly, my Lord, I do conceive hardly an English man, that had the blood of an English man running in his veins, would joyn in confederacie with that Nation, of all the Nations of the world, against this Commonwealth: a Nation that hath been known (and I am sure, the prisoner at the Bar is well read in the Histories and Stories of this Nation) to have been a constant Enemy to this Nation in all ages through the memory of all Histories; and, my Lord, of late, not three yeers since, came and invaded this Nation with a Puissant Army, which it pleased God to deliver us from: and this the Prisoner could not be ignorant of, that we had lately a fight with them at *Dunbar*, that hostility could not be unknowne unto the prisoner at the Bar neither: and yet for all that, to confederate with a Nation, that were such constant enemies to us. My Lord, I could not conceive it had been in the heart of an English man, much lesse in a Minister and Preacher of the Gospel among us.

My Lord, There are some particular charges upon him more then upon any of the rest; After *Drake* fled away, being doubtfull that his secret Traiterous Plot would be discovered, Mr. *Love* supplied his room: all the meetings, and confederacies, and letters, and Agitations in this businesse were constantly at Mr. *Love*'s house, himselfe being present. And, my Lord, money as I said before, by Mr. *Love* himselfe desired to be raised, for the furthering of this design, and severall summs of money were raised.

I shall trouble your Lordship with no further relation, but leave it to the proof that was made before your Lordship and the Court.

Sir Thomas Witherington, the second Councell for the Common-wealth.

Sir Th. Witherington. My Lord, Mr. Love's Defence which he made for himself, as he did it for his life, so he took a great deal of pains in it, and was very accurate in the Defence he made, especially in the Witness. My Lord, I shall not take upon me (for it is not my charge at this time) to reply unto, the whole Defence that Mr. Love made.

My Lord, That I shall say, shall be in two particulars, for Mr. Love divided that which he said into four parts; the first concerning the Charge; the second concerning the Witnesses and Testimony; and 3. concerning himself; and 4. concerning some proposals to the Court.

My Lord, I shall onely meddle with that which is concerning the Witnesses; and 2. to some part of that he said concerning himself; I shall only reply as to these two, and the rest I shall leave to Mr. Attorney General, that better knows what is for the advantage of the Common-wealth.

My Lord, I shall begin concerning the Witnesses to clear them (for now we are in our reply for the Common-wealth.) Mr. Love, who did profess a very great deal of ignorance in the Laws of the land yet he did insinuate something that implied some knowledge of them, in that, my Lord, he took some exceptions to the Witnesses; my Lord, I take it that these exceptions were:

1. That the witnesses were not *Probi testes & legales*,

And 2. That they were *Participes criminis*, and that indeed is included in the other.

My Lord, First I shall speak to this, that the witnesses produced against him, are *Legales Testes*: they are competent witnesses, and sufficient witnesses, without exception against them. I shall first speak to that they are *Testes legales*, for Mr. Love did object, that they themselves confess'd themselves to be guilty of the same crimes, and so their confession is upon the matter, a conviction, and so they are convicted of the crimes in which they are witnesses against him; and so are not competent witnesses.

My Lord, I shall clear this; under favour, I take it they are very clear and good witnesses, notwithstanding the Exceptions. And, my Lord, this I take to be a very plain case, the case which is in our Common Law; the case is — which proves it fully. For if a man be accused of High-Treason, indicted of High-Treason, and will confess the Indictment, and become an Approver, yet he may be a witness against all those parties guilty of the same Treasons with himselfe, he is *particeps criminis* with them, and they with him; and yet this man thus becoming an Approver, will at Common Law be a witness, and a legal and good witness against them.

My Lord, I shall a little open that, because it clears the case. My Lord, an Approver can only approve it is true; that is when a man is indicted of High-Treason and other his Accomplices with him; and he upon the Indictment says it is true, and then desires he may have some thing assigned to him, and then he accuses such and such persons of the same crimes; in this case this man after he hath confessed the Indictment, and takes his corporall oath to reveall all Treasons he knowes in the Indictment, (for he can accuse no further) after this done he shall be a witness, he is a witness against those with whom he is *Particeps criminis*. Nay, my Lord, it is of merit and Justice that he shall have this reward, he shall be pardoned his life. Now that I prove to you, because that shews the reason; that even the man, after Indictment and Confession, yet being an Approver, shall be an Accuser of his brethren, those that were *Participes criminis* with him, and a good witness; and the reason of that goes to this case in hand. For although these men had a hand in the same plot and design with him, and have confessed, and did confess it upon evidence, that they were there present, and did many things; yet I take it they are clear, competent, and good witness; and that is no Objection against them, that they are *Participes criminis*. My Lord, if the law were otherwise, it were impossible to prove many offences; for many offences cannot be proved, but by some men that had a hand in them. In an ordinary case an action of Trespas and false imprisonment, if three men are guilty of it, it is an usual thing in Courts of Justice to admit one of them a witness; true, they are not parties in the action, and so may be witnesses; for these things may be so secretly done otherwise, that their Treasons could never be revealed to recover against the prisoner.

There is a case, I think in all our knowledge, it is the case of the Earle of Castlehaven, he was accused of a very grievous Fact, the witnesses which came against him, were one or two Footmen, that were *Participes criminis* in the very same fact, and these men by the Opinion of the Judges

Judges were competent witnesses. My Lord, he was arraigned, indicted, and convicted, and suffered death: nay, it is very true, that one of these persons was afterwards hanged for the same offence: so that I think, under favour, as to that, I take it, that they are cleer and good witnesses, notwithstanding that objection.

The next objection is, that they were not *probi testes*: Truly for that, my Lord, I must appeal to your judgment in it, whether these men be not *probi testes*, & *honesti* too: for in case of an approver, as I mentioned before, that man that accuses his brethren upon the same Treason, it is said, that of merit and justice, the King ought to grant him his pardon: For they that discover the Traitors against the Commonwealth, these certainly are *probi testes*, and good Common-wealths men: and so I take it, that this is no objection against them in that, but as before they were *legales testes*, so they are *probi testes*. My Lord, I mention these things, to shew that the witnesses for the Commonwealth are good and competent in this case.

The next objection touching these witnesses, is, that though they be admitted for good witnesses; yet there is not to any one fact two witnesses: There is not any one of the most criminal parts of the Charge proved by two witnesses: And so as before they were incompetent in regard of the quality and participation of their crimes, so now be would make them incompetent for want of number.

My Lord, I shall first agree to the ground of this objection; for truly, my Lord, I take it, that it is by the common and ancient law of England, that in cases of Treason there must be two witnesses; and it is by a law more ancient then that, that is, by the law of God. But my Lord, it is true, the law of this Land is explained by severall Statutes: the Statute of the first year of Edward the Sixth, and the fifth year, and the second year of Philip and Mary; My Lord, I take it, upon all these Statutes, the one Statute sayes, To accuse another, there must be two witnesses; I take it, the accuser and witness are all one; that is, the same that in one Statute is called a Witness, in another is called an Accuser. But there must be two, that is the objection. But then give mee leave to consider this Case, and to consider how those two witnesses shall be. My Lord, I say under favour, that in a Case that consists of a complicated fact; that is, the reiteration of many actions, my Lord, I conceive none of these laws are to be intended, that for every of the particular facts there should be two witnesses: that cannot be the intention of any of these laws, that in every particular fact, that is to say, whether Mr. Love was present at the reading of the letters, if you have one witness to that, another for the writing of them, another to the sending of them; though these three witnesses speak to severall parts of the business, yet they are a concurrent testimony, for all agree to the fact. I well remember, my Lord, a Case in the Star-chamber, against B. of Leicester-shire, I think there was an information against him for Bribery and extorting of Fees: The matter came in the conclusion, that one man proved a bribe, and another man proved a bribe; one proved a bribe of forty pounds, and another a bribe of forty pounds: but there were severall witnesses to severall bribes. The question now was, whether he took bribes or no? And these tending to the same generall Charge, it was the opinion of all the Judges, that he did extort and take bribes. The one witness spake to one bribe, and another to another; and in that Case, as two witnesses, made good a charge against an offender, yet in that case it was taken, that where witnesses, though they speak not in every particular, yet all tending to the same generall Charge of Bribery, these were taken for plurall witnesses, and that was a good conviction. That was the opinion of the Judges then. I mention this Case onely for an instance to expresse myself in this: For Mr. Love cannot expect, that to every particular thing laid to his charge two witnesses should be produc'd. But my Lord, when one witness proves, this thing he hath done, this letter hath he written; and another that another thing he hath done, which all tend to the Treason; now these are more witnesses, and two or three witnesses of the same thing, though not to the same individual thing it is —. So that upon the matter they are concurrent witnesses in this complicated fact, though not concurrent in this or that circumstance; for that is impossible almost in any action to be done.

But then Mr. Love did farther enlarge this objection; which was out of a saying he had, That in case of Treason, *Probationes oportent esse lucidiores*: The proof must be as cleer as the Sun. Truly, my Lord, it is very hard, that works of darknesse should need so much light for discovery, and that so cleer a proof should be necessary when the things are done in darknesse and secrecie. My Lord, I think, under favour, though in this particular we have our witness, as I do take it, to speak very plainly and cleerly; for it is their owne faulces if they doe not, for they were present at the meetings, at the Consultations and Debates. But yet I do observe, That in this case things were carried on in a very

secret

secret manner; for I do observe first, at these meetings all of them were done under a disguise, every thing acted in this businesse. I observe it upon evidence, first, That the very meetings themselves, They go under the Title of Prayer and Fasting; for so *Hunsington* told you, he was spoke to go to prayer at Mr. Love's house. The Contributions made for raising of money, for sending of Messages and dispatches, was under the disguise of charitable uses; so that here was darknesse all along. And then for the Letters, there was no names subscribed to them, all were done without names, only the letter L. was upon one. And the place truly, I must say, that was obscure too; for what man would have thought, that the place of meeting should have been Mr. Love's house, a man that hath been so much for, and shewed so great an affection to the Parliament, as he said himself in substance? a man would sooner have thought to have found this Treason in any Cellar in London, then in Mr. Love's house. For the Instructions, for the directions and Dispatches, some were sent in Table-books, written in Sack in a Table-book. But, my Lord, I am afraid in the conclusion, the Letters will be written in blood. But, my Lord, this I do observe, that through these difficulties, though we past through our Evidence, yet your Lordship heard how plain the proof was in most particulars.

My Lord, I shall say no more as to these Witnesses, because the other part of answering the Witnesses belongs to the Attorney Generall; for Master Love went over all the particular Witnesses.

My Lord, I shall only say one thing, and that is this, concerning Mr. Love himself; and it is only concerning this point. My Lord, Mr. Love himselfe did say, He would be ingenuous so far as he took himselfe to be guilty. But, my Lord, I know your Lordship and the Court observes, that that ingenuity did follow the proof that was for the Common-wealth. My Lord, he confesses he was present at them, he was silent after all these Meetings and Debates, I mean the meetings after they began at his own house; for I speak not of them that were at *Dow-gate*, for there is no proof that he was there. My Lord, this he confesses, and this he says is misprision of Treason. Truly, my Lord, I must be bold to differ from him in that particular; I take it that that he confesses is High Treason. I shall speak a little to Misprision of Treason, and so conclude.

My Lord, Misprision of Treason is when a man hath notice of a thing that is Treason, and hee conceals it; now, my Lord, under favour, the concealment must not be long. it must not sleep long with him. My Lord, I remember an Axiome an Author hath in our Law, and that is *Bras-hon*; he hath a discourse of misprision of Treason, he hath it in Latine—*sayes hee, He that knows a Treason, he must not stay in one place a day and a night; but he must go on, he must go toward the Magistrate.* Nay (sayes he) though he have most urgent business yet he must set it aside and go on, and must not stay in any place till he hath revealed it. Nay he sayes further, *He ought not to look back till he hath given information to the Magistrate*; The man that doth not after this manner forthwith reveal it, this only is misprision of Treason. But considering this case of Mr. Love, now confessing the fact, he takes it to be misprision of Treason, but I take it to be Treason it selfe. My Lord, I shall observe what Mr. Love did; he was at these meetings; these meetings were continued for divers dayes, and months. My Lord, was there any discovery made by Mr. Love? was there any revelation of his to any Magistrate? Did he tell it to any man? Nay, Did he confesse it upon his Examination, when examined? Nay, Did he not deny it when he came to the Bar before your Lordship? Can this be said to be misprision of Treason, that a man should hold so long in Treason and not reveal it? My Lord, As every Treason includes a misprision of Treason in it; so I conclude, that misprision of Treason may grow up to treason it selfe. Now when a man shall so long sleep upon it, and be violent in it, and not reveal it, I take this misprision of Treason grows up into Treason it selfe.

My Lord, I shall say no more of that, but I shall conclude, because the other part lies upon Mr. Attorney Generall, who is better able to do it; onely one thing I shall take notice of to your Lordship, and I am troubled at it; and that is, That as he saith, that he that hath been so much for the Parliament, with whom he hath gone along, and took sweet counsell together, and hath been Active for, and Passive with through all the passages of the late Warres, that he should suffer from them, this, he saies, stuck very much upon him. But, my Lord, for him that hath been so much for the Parliament, so familiar with their proceedings, that hath been so active for them, and hath suffered so much for them; my lord, for him to kick the heel against the Parliament, for him after all this, now even in the Infancy of this Commonwealth, that this child should be destroyed, and by one with whom

whom we have took sweet counsell together. And by one I may say this, that though he had no hand in making this Common-wealth, yet I dare say he had in the preparations to it; for himself all along hath gone with the Parliament; so that my Lord, I take this to be an objection against him. But, my Lord, I shall say no more in it, but refer the other part to *M. Attorney-Generall*.

M. Attorney-Generall the third Councell for the Common-wealth.

At. Gen. My Lord, I am sorry *M. Love* hath given the occasion of this meeting, and of my speaking at present, I could much rather have wished to have been silent; but now I am drawn hither, I am forced to it. *M. Love*, my Lord, in the beginning of his Trial did desire God so to assist him, that he might go through it with gravity, meekness and wisdom, as became a Minister of the Gospel: I wish that God had heard his prayers, that he had so gone through it; what he hath done, the Court hath observed.

My Lord, in that part I have to do, I do heartily desire I might do it with faithfulness to you, and the duty of the place I ought to discharge, and to the Court.

My Lord, the work that this day lies upon me is, to reply somewhat to what was said by *M. Love* in his own Defence, and to make a faithfull repetition to the Court, and to doe the Witnesses and the Prisoner right; to repeat that, and that onely that hath been said: And in that, that I may do no wrong to mislead the Court, and offer nothing to the prejudice of the Witnesses, nor to the prisoner. And truly, my Lord, I shall not (in his own words) have any tortured Collections, nor any inferences, nor strains of wit; he hath showed his Oratory in his defence. My Lord, I shall show the simplicity of Law in the Reply.

My Lord, the Charge hath been repeated to you, and for that insisted upon by *M. Love* for the Witnesses and testimony you have had answer; I shall not trouble you, there hath been pains taken in it, my Lord, I think all men were satisfied that it was clear enough; yet to make it more clear. *M. Love*, my Lord, insisted upon one thing more; and that is upon point of Time, and the point of the Jurisdiction of the Court, which (by your favour) I shall first begin with.

He stands charged he sayes, for crimes done in 1648. 1649. 1650. and 1651. and those crimes he sayes, were before this Court was, or had a being, and so had not power to take cognizance of them.

That my Lord, I shall endeavour to clear to you, and I think in much cleerness, clearer than the light, as he will have his evidence. He stands charged (I say) positively, my Lord, with no crime before a Law was emitted, that did give an inhibition and was publish'd and known. He stands charged with no crime before the Law was publish'd; that did declare what the crime was, and gave notice to beware.

My Lord, that that was first, was the Law that was made the thirtieth of January, 1648. that doth declare, (and upon that Law I shall fetch the foundation and rise of this Treason) that whoever shall proclaim, declare, publish, or any way promote *Ch. Stewarts*, or any other person to be King, or chief Magistrate of England, or Ireland, without consent in Parliament, shall be adjudged a Traytor, and shall suffer pains of death as a Traytor: Here was this Law publish'd, and notice given what every man should trust to, and I may say my Lord, Obedience expected: Against this Law hath *M. Love* transgressed, and under favour, in a very high measure; so that, my Lord, I charge him upon this Law, and since this Law was made, and to this Law there is no limitation of time for men to be questioned for it: and for this Law, it is in expresse terms given in Commission to this Court to take cognizance of it; so that I think, this is a little clear to him.

My Lord, the next is a Law published in July, 1649. that is entituled, *An Act declaring what offences shall be Treason*, that I think he is not ignorant of, though he pretended to be ignorant of another. My Lord, that Law likewise, though it was before this Court was erected, yet this Court hath by expresse words of the Commission power to take cognizance of it; and this Court in these things is not like other Judicatories, that when offences are committed, the State takes care to appoint Courts and Judges to judge those offences; let it be no offence to *M. Love* if this Court were erected especially to try him, but the Law was not made especially to punish him; for the Law was made before, and the offence committed before, and so I think, in all England the offences are committed before the Judges go their Circuits and have their Commissions.

My Lord, the next is the Law that constitutes this Court, and sayes in what particulars this Court hath

hath power to take notice of offences, besides those mentioned before, and the last concerning the Scots; that was but lately which Mr. Love sayes he was ignorant of; but he was not ignorant to doe somewhat against it. My Lord, these are for the lawes that Mr. Love is impeach't upon.

The next thing that I have to doe is, (and in that I humbly beg your favour, That as I am now to doe Justice (if I may so say) to the Court, and to bee faithfull to my Trust and the Duty imposed upon mee) to repeat the evidence right unto you, and in that, as the Gentleman the Prisoner at the Barre, hath had that favour from you to have a Notary by him to take all that was said of all parties; so, my lord; by your favour, wee have had some here to help our memories; with whom I have conferred, and by the help of their Notes and our memories, my lord, wee thinke wee have faithfully transcribed that which was said by the Witnesses. And, my lord, I humbly crave favour, as not now being a private examination, to be read, but a publike testimony in the presence of Mr. Love himself, and the Court; I hope it is not private now, but I may use notes to do him right, and may read those things that they testified upon their oath here.

In the first place, my lord, I shall according to my best judgement do him no wrong: For the first, I shall acknowledge it was but a heare-say, and that from Drake, of letters sent from Scotland to the Presbyterian party in England, to let them know what had been done of proclaiming the King there, and that care should bee taken for their Interest. This I doe acknowledge was but a heare-say; but that which followed not long after that time, my lord, was positive, and there (my lord) I shall begin the rise of this; and thus as hath been observed by my fellowes that are Counsell here, though there was not acting, nor presence, nor knowing, yet (my lord) under a second, it will appeare hee was consenting and approving, and so guilty of the first fact: My lord, there was a meeting at Dowgate, I suppose you remember it full well, it hath been severall times repeated to you by severall persons, and Titus the party now beyond the Seas, and Drake, and other Traytors fled, were prime sticklers for this, and moved others to come in and to bee there present, and heare what was the designe. As I did crave your Lordships favour, so I shall, that I may not (as hee sayes) trust to fickle nor roveing memory, that I may bee faithfull to read to you that I have taken, and what was said by them: I suppose Mr. Love hath by him one that can controule me if I doe not right.

I begin with this meeting at Dowgate, and continued at the White-Hart in Breadstreet, Alford gave you this evidence, *That one morning hee was wished by Drake to goe to the Swan at Dowgate; when hee came there, there was one Titus who gave relation of the good disposition of the Prince, and how inclinable hee was to take the Covenant, and to cast off the Cavaliering party, and those about him, if there were opportunity found, how to make him know there was a considerable partie in England that would stickle close to the ends of the Covenant; and upon that wee that were there did thinke wee were bound in duty, in relation to the Covenant, to perswade the Prince to take it, and so prosecute the ends of it. And for that Titus said, if wee would appoint another meeting, hee would draw up something in way of Application of the Presbyterian party to that purpose.*

Wee afterwards met at the Beare in Breadstreet, and there hee drew fourth something hee had framed to that purpose, and read it, and it was agreed upon to bee sent over to the Prince, the substance of it was to presse the Prince to apply himselfe to take the Covenant, and so prosecute the ends of it, and to cast off all the Cavaliers and that party about him, which had brought so much mischiefe to his Father, and would doe likewise to him: And this (I believe) was sent over, for Titus undertooke to send it over. Wee asked him, how the Prince could bee made to believe that this coming from so inconsiderable a party as wee were, should come under the notion of the Presbyterian party of England; hee said hee would undertake it by meanes of my Lord Piercie. And my lord, I thinke you doe remember there was one Mason servant of Piercy, that was sent over hither, so testified by some, to reconcile the Royall and Presbyterian party. This Mason (my lord) was Piercies Servant, so testified here by divers. my lord, here is now the foundation,

M

Drake

Drake is he that moves *Alford*; and *Titus* I may suppose the mover of *Drake*, and both of them fled as Traytors.

My Lord, If they were Traitors, and this is Treason; then whoever had a hand in carrying on this Design, himselfe is a Traitor, and his Action is Treason. My Lord, this is the Testimony of *Alford*.

My Lord, There is another witness, and that is, lieut. Colonel *Bains*, who I think was present only at this meeting, and had enough of it, and did leave it; and yet was present at this, and gave in evidence of what was there proposed. I think he was present at no other meeting, he was satisfied this was too much; his Testimony, as I take it, was this, for I shall read it, that I may do no wrong to no party: *Bains* said, *It was also proposed by Titus, that something should be done in order, to restoring the Presbyterian Interest, by Application to the Prince, and to assure him that he had a considerable party in England, which look'd upon it as a duty, and lying upon all of them by the Covenant. And that it was necessary some what should be done by some Parliament men, Ministers and Citizens, that were leading active men, that he might have an assurance, that somewhat would be done for him: and somewhat to the Queen, Jermin and Piercy, whom, he said, were their friends.* This, my Lord, was that which *Titus* said at this meeting; and testified by *Bains*.

My Lord, There is another, Colonel *Barton*, who was produced as an Evidence. My Lord, I think that he spoke not much more then to this, and gave off here. My Lord, his Testimony was this; for I do conceive, under favour, we have taken the very precise words spoken by them: And, my Lord, so as spoken and taken, so written, and so, my Lord, read to you: *Barton*, my Lord, said, *That Drake would have him to be a Messenger, and to that purpose there were severall meetings at the Swan and White Hart.* This was what *Barton* testified.

My Lord, Then there was Major *Huntington*, which was at this meeting, and one more at *Mr. Loves* house, which he full well remembers. My Lord, *Huntington* says this, That about *March* 1648. (in *January* was the Law published) *Alford* told him, that *Titus* was in town, and that he was newly come from beyond the Seas from their friends, *Massy, Bance, Graves* and others, and that *Titus* was to meet the next day at *Dow-gate*, where he fell into high praises of the Prince, and told them that though he was taking unhandsome courses, yet they had great hopes his inclinations were otherwise. *Titus* said further, he feared his inclining to the Irish, unless something should be gotten from his friends here to divert him; that you remember was *Mr. Loves* charity too, as you will hear anon. *Titus* purposed to get letters from persons of honour, to perswade him to a good opinion of the Scots, to take the Covenant, and to joyn with them.

Afterward they met at the *White Hart* in *Bread-street*, where *Titus* declared that he should gain these letters, and hoped to set something a foot to the same effect; and there said, they were confident they could see no way under Heaven for himselfe, but by taking the Covenant, and engaging the Scots against England; to which purpose he drew forth a Paper, purporting that they were bound in honesty, confidence and loyalty, to maintain and help him to his just Rights, if he would go along and joyn with the Covenanting party in England and Scotland.

My Lord, This is that now that hath past in proof by evidence concerning this first meeting at the *Swan* at *Dow-gate*, which I do humbly conceive was the rise and foundation of what follows afterward. And this, my Lord, if true, I suppose no man will say, but that was Treason that was transacted there. I do not say, my Lord, that *Mr. Love* was present at it, nor as yet, can I say, knowing of it, but what follows after, my lord, will bring him in danger.

My Lord, Here, you have heard, was this meeting, and what was propounded to be done here, and how active *Titus* was, and that he was to go (you have heard by the Testimony) to *Piercy*; and it is not doubted by any but he did go thither; it is not doubted by any but he was sent and did go thither. To that purpose I shall now read you two witnesses more, which I have caused to be transcribed too, in the words as spoken by them, as I do conceive, that is *Adams* and *Fay*; That there was money agreed upon, to send *Titus* to *Piercy*; that there was money collected, and that they themselves did contribute. *Adams* he expresseth it thus: *That upon a meeting, the place and time I remember not; where I think were present Drake, Titus, Alford, and my selfe, and I cannot tell how many more; It was agreed that Titus should go to Piercy, the end of his going was to promote an agreement between the King and the Scots, according to the Covenant (and, my Lord, you shall hear in due time what that Covenant is; that Mr. Love hath said in his late Defence.) In order to his going, we did*

agree

agree to furnish him with money for the present, and made some kinde of promise to keep him while he was out; about an hundred pound was furnish'd; for my part, I paid twenty pounds of it. This is Adams.

The next is Farr. He says, He did understand by Drake, that Titus, who was here requested as one, to be present at the Treaty at Jersey, which Titus did undertake to go thither; he undertook to go himself: that after he was gone, Drake desired Farr to let him have ten pound, saying, Titus was in want, and upon this I lent him ten pounds; the Letter was read at M. Loves house when he came from Calice. So my Lord, here is now under favour, his proof before you of this meeting at Doungate, at the Swan there, finish'd in Bredstreet, carried over unto Jersey, Titus the Messenger furnish'd with money by a party from hence in this Arrant, as we told you. My Lord, all this while I do not hear of M. Love; if he were, My Lord, he was like the Mole under ground: but however, my Lord, Mr. Love hath carried himself (as some have said) like a Rat among joynt-stools, a man can see him, but cannot bite him; But, my Lord, I doubt he will appear to be too busie in what follows, and that he had a hand in it at first.

My Lord, the next to go on with is this, in times that when Titus finish'd his work at Jersey, he was then to give an account to his Masters that employed him, and upon his return he was to doe it faithfully, as he thought. But being informed, that the State had vigilant eyes, and they discovered him what he had been doing there, and he having notice from some of his steadfast friends here of it, he thought it was not safe for him to come in person, so that his guilty conscience kept him off: But then he did desire that he might give an account by the hand of some others, by their memories, and for that purpose wrote a letter, to whom I cannot tell, I think to Drake; The letter was written, and under favour, my Lord, this letter from Titus was read in M. Loves house, to have one sent to him; and there it was propounded for some to be sent, Adams was propounded, for him to go; Farr propounded for him to go; but not them, but Alford was agreed to go, and did accept of it: but not that he was there, my Lord. My Lord, for this I shall crave the same favour from you, to read Adams and Farr, as to that particular. This is Major Adams, It was moved in M. Loves house, M. Love being there present, that I should go to Calice to meet Titus; but Alford going thither, did at his return give an account of the state of things at M. Loves house. My Lord, that I read him for, is for that part, that it was moved in M. Lover chamber, M. Love being then present: that I should go to Calice to meet Titus; it was moved that Adams should go; my Lord, this I read to show M. Love was privie to this before the Messenger was sent. My Lord, the next is Capt. Ralph Farr. I was in M. Loves house in his Study, wherein (in M. Loves Study) a letter was read from Titus, desiring one might be sent to him to Calice; and thereupon it was moved that I should go, but afterwards it was agreed that Alford should go, who went accordingly. That is now as to that particular, that before any man was sent unto Calice, it was made known in M. Lover house, and some propounded for to go, and at last another did go; this, my Lord, I offer to you, as that which will not be controverted by M. Love, for I have read you two Witnesses to it. The next, my Lord is, in which (I think) we doe not differ, but that when Alford had been at Calice, and had taken the account that Titus gave him, the copy of the letter which he said was from the King to the Presbyterian party here, the Narrative of all the Transactions and Proceedings at Jersey, that upon his return, I think we do not differ, nor is it denied; I am sure M. Love acknowledged it in his last Defence, because proved by four, therefore confessed; my Lord, that this Narrative, the copy of this letter was read in his house, and for that I have the testimony of Adams, Alford, Faquel, and Farr, which if it be your pleasure, I shall humbly read unto you.

The first is Major John Alford, Having received at Calice a Narrative in writing of Titus his transactions in Jersey, I brought the same to Drake, to whom it was directed: Now it appears to whom the direction was; and he brought it to M. Loves house, where it was read; afterwards there was a Commission so called; but my Lord, if you please, that is for this in the first place, That this Narrative brought from Titus by Alford, was read at M. Loves house.

The next is Adams, But Alford going to Calice, did at his return give an account of the state of things at M. Loves house, which account was the Narrative from Titus, and the copy of the letter said to be the Kings letter. The Contents whereof I remember was as followeth, The King expressed a great deal of affection to the Ministry in generall in England, and promised them great favours when he was in a condition, and desired them to continue steadfast in the way they were in; which letter was read and publish'd in M. Loves Study, and M. Love was there sometimes of the reading, at the same time a motion was made of

giving thanks to Titus for his well managing affairs there, and at the same time the Commission and Instructions were. So that here is another testimony, that this was done at Mr. Loves house; the Narrative, says this Gentleman, and the copy of the Kings letter.

My Lord, the next I shall read unto you is Mr. John Faquel. After Alford coming home, I was at Mr. Loves house, where was Potter, Drake and Alford; and Mr. Love was there some times, though divers times some body came to speak with him, and called him, and he went to speak with them: A Narrative from Titus was there read by Alford or Drake, wherein was declared the Kings inclination to make peace with the Scots, but his wicked council hindered him. I think it was a Narrative of what had pass'd between the King and Titus at Jersey. This is that that Faquel says.

The next, my lord, is Far: Alford being returned, he gave account of his imployment at Mr. Loves house; A copie of a letter was there read, from the King to the Presbyterian party in England; the substance was to send Commissioners to the Treaty at Breda. The Narrative brought from Titus was communicated at Mr. Loves house: where were present ten or twelve persons. So, my lord, you have heard these four witnesses, what they have said concerning this: Now you shall give me leave to make application of this to the former: I shall crave you favour to go thorow this. There follows more at Mr. Loves house; this is not ended yet. My lord, after this, there was somewhat propounded to be done upon this Narrative and a letter from the King; somewhat was propounded at this meeting: My lord, then there was (as I know the Court remembers) speech of a Commission that was somewhat controverted. There was speech of a Commission, and a Commission read, Mr. Love ingenuously acknowledgeth, and it was proved, and he declared his dissenting from it, and that he was against it, because as private persons they had no power to do any such thing. But, my lord, that there was a Commission read there, brought by Drake (I do not say that this proves that Mr. Love corrected it:) That there were Instructions and letters read for to be sent over, I think, is not denied: but, my lord, for that, if you please, I shall read you the witnesse. The first is Alford: Afterwards there was a Commission, so called, agreed among us, sent over to the lord Willoughby of Parham, Massey, Graves and Titus, at Breda, to advise with the Scots Commissioners there, in behalf of the Presbyterian party in England. This Commission was read in Mr. Loves Studie: and at the same time Instructions for the Commissioners to walk by were agreed on to be sent: which Commission and Instructions were the substance of the Petition formerly sent, to presse the King to take the Covenant, and to prosecute the ends of it. This Petition was (I conceive) what was formerly agreed upon at Dowgate: which Commission and Instructions one Mason the lord Piercy's man carried over. This is Alford's testimony as to this. And being ask'd by Mr. Love, Did not I dissent from sending the Commission and Instructions? he says this, It was agreed in the generall, that the Commission and Instructions should be sent, Mr. Love being then present. All present are Principles, my lord.

My lord, in the next place is Major Huntingtons testimony; and the first is this, That at Mr. Loves house, in the beginning of March 1649, I found Drake and others, and there was read a paper in the nature of a Commission, Commissionating my lord Willoughby of Parham, Graves, Titus, Massey and Bunce, to treat in the behalf of the well affected party of England, and to joyn with the Scots Commissioners, according to such Instructions as should be therein inclosed. And this question being asked, What power have wee to give or send such a Commission? Drake answered, Wee have the Kings Command for it, and the authority of some secluded Parliament men; for I look upon them beyond the Power that is now sitting. Whereupon Mr. Love replied, Come, come, let it go. You have heard Huntingtons testimony, and Mr. Loves paraphrase upon those words.

The next is Adams. At the same time a Commission and instructions were spoken of at Mr. Loves house, to be drawn up and sent. As I remember, Mr. Gibbons brought the rough draught. I am very confident that Master Love was there some part of this time; and it was in his Studie, where this was generally consended unto. The Instructions were there agreed also, and read by Drake, as I remember. Sterks the Scottish Agent met with us sometimes at Master Loves house. This is what was testified by Adams: There is another to this, and that is Captain Far: William Drake read there a paper, of the nature of Commission, which was not agreed to by the Company, because private persons had no authority to give Commission. The Commission was in the name of the Presbyterian party. A letter and instructions was then agreed upon. The Commissioners were to be the Lord Willoughby of Parham, Bunce, Massey and Titus; who was to move in the behalf of the Presbyterians: Papers then were read, to have been sent to the Queen, to perswade the King to give satisfaction to the Scots. But they were not assented to.

My lord, I have done with this that concerns this meeting; and now I shall apply that which I intended and spoke of before. The Design you heard, that (my lord) was at the Swan at Dowgate, was treasonable enough in conscience, high enough; a partie employed to agitate! And though wee do not finde *Mr. Love* to have been knowing or privie to it at first; yet, my lord, if there be a Treason hatch'd and designed, a partie sent in it; and any subsequent act of any other party, that shall come into this, and approve of it, and joyn in it in what way soever, This man, my lord, is guilty of the first transaction of Treason. So that though *Master Love* did so walk under ground, that wee cannot bring him in to be knowing at first, yet I bring him approving at last: And, my lord, though here be his first appearing, it is enough and too timely; And my lord, *Titus* departing, and an account given of all; and for ought appears, nor to be proved by mee, nor by any for the Commonwealth, whether *Master Love* did approve or not; or how far hee went in it. But hee was present, and at the debates and discourings about it, and actions in it. My lord, this is far from misprision of Treason; for misprision of Treason is a bare silent act, that carries nothing of discourse nor debate with it: it is a simple act of omission. But when Treasons are hatch'd, and are design'd, and others shall come and treat, and debate, and discourse upon carrying them on; my lord, by the subsequent act hee hath approved of all that pass'd before, and made himself partie to it. Here is an account given by *Titus* of what had pass'd there; this is brought into *Master Loves* house; there are debates concerning a Commission: whether they took the KING for the Authoritie, or the King wrote of it, it doth not much move mee. A copie of a letter from the King was read there, let them take it among themselves as they please. Here was a Commission debated, and *Master Love* acknowledgeth hee debated against it. My lord, under favour, if hee had declared an utter dislike, and (as hee himselfe sayes) a detestation and abomination against it! But hee goes on, though not in that particular, yet in another; and hee is guilty of all. In Treason there are no Accessories, all present are Principals.

The crime of Treason is beyond the crying blood of murther, one is but private, the other is publick; so as, my lord, though *Mr. Love* acknowledgeth, that he so far owned the Narrative from *Titus* and the proceedings there, the reading of it, but did dissent from the commission, and did speak against it, and at present I shall take it so too; yet for the instructions sent, and for the commission named, you have had four witnesses named to you; my lord, dissent will not serve his turne, and yet to that there is not a pretence of a dissent from the instructions, and what was sent, and that is a concurrence, and that is an approbation of all precedent actions, and makes himself a party in it, and that is by one witness; and, my lord, you have heard by *Master Serjeant Witherington*, that to every circumstance there needs not two witnesses, but to the designe there must be two; and *Adams* himselfe sayes it was propounded to have given *Titus* money, as you shall hear by and by; and *Farr* tells you, that there was going on so farre in it, that a paper was read for letters to be sent to the Queen to move her to perswade the King, but that was not assented to; but it was moved among them.

My Lord, The next thing I shall take, as near as I can, was when this was done, and this transaction past over, and the instructions sent, that were agreed upon for Commissioners at *Bredab*, then begins the troubles in *Ireland*. You have heard of a Paper Book sent, written in sack, and returned a year after; that comes next: There was sent over from *Colonel Bamfield* (*Mr. Love* says, he knew not the face of the man) but he lik'd his employment it seems, that would be privie to such proceedings from a man he knew not. There came a servant over, I take it from *Bamfield*, and that was about Christmas last, that is the time express after *Dunbar* fight. My Lord, This was brought, the letter was delivered to *Poster*, and their Supercription was singly with the letter L. which I may say, may be better applied to *Master Love*, then to any other, all circumstances considered; yet I shall not conclude from it, but though he sayes, he had no letters directed to him, I shall say as truly, that they were directed to him, as much as to any man else, and a little more, for *Master Love* was very unfortunate, that these letters should be brought to him, read in his house, the transactions there, and *Mr. Love* to have no hand in it; this is hardly to be believed.

My lord, in the next place are these letters that came from *Bamfield*: if it please you, for that I shall read *Poster*. I received letters out of Scotland from *Bamfield*, with the letter L. upon it, wherein was

a large Narrative of the affairs of Scotland, from Dunbar fight, to the time of the date of them, which (I think) was about Christmas. I carried those letters to Master Loves, where was one or two more with us, Jaquel, and I think Doctor Drake, we three I am sure of it. There were letters from a namelesse person, whom we supposed to be Master Bailly; and a letter from my Lords of Argile, Louthain, and Lowden. These letters wrote for ten thousand pounds for buying of Arms and hiring of shipping; and for five thousand men to be landed in England. These letters were disliked and dissented from, and it was agreed to give a negative Answer: And we thought fit (for our own safety) to raise some money for the Messenger and Bamfield: the sum agreed on was forty pounds; to which I contributed ten pounds. I carried the letter to Mr Loves, to take advice upon it. Mr. Love and I, and Jaquel read those letters that were opened, and those that were not opened, we did open and read, and discourse on them; and upon advice resolved to do nothing in it: Neither did they reveal it. And then being demanded, whether at Mr. Loves house there was not a discourse for raising 4 or 500 l. he answered, There was. Being demanded whether letters were not returned to Bamfield, with the money sent him; He answered, A letter was left at my shop, and I apprehended it came from Master Love, or Mr. Drake. (and Jaquel being demanded whether Mr. Drake and Mr. Love were not appointed to draw up the letter? he answered, Yes, they were.) and that is Potters testimony.

The next mention is, that Jaquel was present there, he is sure of it; Master Love himself, and Jaquel. This is Jaquels testimony; As a Meeting at Mr. Loves house, Master Love being present, It was thought fit that forty pounds should be raised for Bamfield. A letter was read from Bamfield as Master Loves house, Mr. Love being present; Mr. Love declared, he never saw or knew Bamfield. The letter was for five thousand pounds to hire shipping. And another letter from my Lords of Argile, Louthain and others, at the same time and place was read, to induce the Confederates to give credit to Bamfield. Potter moved that ten pounds might be given to the Messenger that brought the letter, and thirty pounds to Bamfield: which was considered of, and nothing said against it. There was no agreement; but it was thought convenient by all then present. Upon this Mr. Love ask'd Mr Jaquel a question, and he said, I cannot say that Mr. Love said, It was convenient: but it was not dissented from, or spoken against by any.

My lord, I suppose this is a faithfull relation of what the witnesses said. My lord, you have heard of this, and the time when it was; That Bamfields servant was sent, and letters brought from Scotland, giving an account of proceedings there: letters from Argile, Louthain, Lowden, and Belcarrie, to give credit to what Bamfield should relate: money provided, though not the sum nor the means those letters did hint to them; perchance their purses could not reach that; but so far as they could go, they would; they would reward him that brought it, and him that sent it; and thereupon 40 l. was provided, ten pounds for the messenger, and thirty pounds for Bamfield. In this repetition I think I have not wronged Mr Love.

The next is the letter that came from Massey and Titus, who were then in Scotland; and in what condition I think every man knowes; in what condition they are there: though by the way, I should be sorry to repeat that which Mr. Love did say the first day, That it did not appear to him, that the Scots were in arms against the Parliament of England, but in arms for their own preservation; and therefore did desire Councell; here was one of his reasons why he desired councell to be informed, To advise him whether they were in arms for their own preservation, or in opposition to the Parliament of England: This was that Mr. Love was pleased to say the first day. My Lord, this of Massey and Titus gives them an account likewise of the affairs in Scotland after Dunbar fight too. If you please, my lord, I will read you three witnesses to that, and that neither doth Mr. Love deny, but that these letters were read at his house.

This is Major John Alford. After Dunbar fight, we met at Mr. Loves house in his lower room, where a letter from Massey was read, which gave an account of the fight there; wherein he also wrote for Arms, mentioning his own and Titus necessities. Thereupon a proposition was made for raising of monies for the supplying of their necessities; and five hundred pounds being propounded, it was brought down to two or three hundred pounds, to be raised among our selves: Mr. Love did then move for contribution of money to that purpose; and I thereupon promised ten pounds, which my man paid. This, my lord, is the testimony which Alford gives, as to this concerning Massey.

The next is Adams. When the money was propounded to be raised for Massey and Titus, certainly Mr. Love was then present; and this after the Fight at Dunbar: And the money was agreed to be raised by these

those that were privy to the correspondency; Mr. Love had then a paper in his hand, and did write some thing, I saw not what he did write, and so every man that was there did write what he would lend, I conceive Mr. Love summed up every mans sum. Masseys letter was for Armes, and the money propounded was for Titus and Massey; For Titus, because he was sent by us: and Mr. Love was there. This, my Lord, is Adams his Testimony; and though he did not know what Mr. Love writ, yet he knew what Mr. Love moved.

My Lord, Here is another, and that is Captain Farr, which I shall make bold to read to the Court likewise, concerning the same action. After Dunbar fight I came somewhat late to a Meeting at Mr. Loves house, where Mr. Love told me a letter was come from Massey, to assist the King with Money and Armes, but it was not agreed that any Money or Armes could be sent. And I understood from Mr. Love they could not do it. Mr. Love then likewise told me, they agreed to raise a sum of money for Titus, Massey, and Graves, and to be sent to relieve them in their necessity; which sum, whether it was 250^l. or 300^l. I cannot positively say; but Mr. Love moved me to contribute, I told him I would give him five pound, which I brought wrapt up in a paper, and laid it down on Mr. Loves Table, Mr. Love and severall others being in the room; it was so done that there might be no discovery. And Mr. Love asking him some Questions upon this, whether it it was done so by Mr. Love or no, he did not know that, but it was done so by himselfe, that there might be no Discovery. My Lord, Mr. Love did not disagree; Far being crosse examined by Mr. Love, did not say that Mr. Love did disagree to the sending the money to Massey and Titus. So I have done with that particular likewise, the receiving letters from Massey, and of the account from Scotland, and the fight there.

That which Adams saith, Mr. Love having replied unto it, concerning a letter writ to the Generall Assembly and Kirk of Scotland; and in that, my Lord, he is pretty positive. Adams Testimony is; There was a letter written to the Generall Assembly and Kirk of Scotland at Mr. Loves house; Mr. Love was sometimes present at this meeting: which letter was taken to be penn'd by Mr. Love and Mr. Drake, and I thought it to be so because of the language of it; and that after Drake escaped all the meetings I know of, were at his house; and so my Lord, say some others. Being examined, he sayes, I saw letters which were read in Mr. Loves house, Mr. Love was present and privy to the debating of them, and did not declare any dissent.

My Lord, I have now done with these particulars, you have seen Mr. Love at the end, though you found him not at the beginning; it is not good to come at the ending of the Quarrell. But, my Lord, under favour, by the lawes and rules of Justice, if any ill thing be contrived and plotted, and afterwards any other person shall come into the contrivance of it, and carry it on; My Lord, I think I shall not need to say much in it, but he is culpable and guilty of the whole, from the first to the last: And that Mr. Love should be but a meer Spectator, a meer concealing person, it is very hard to be beleev'd by any that are rational men; for after that once Titus hath done his errand at Fersy, and gives his account here; my Lord, that his transactions, and the subsequent imployment, all that we know of, are all transacted, and carryed on in Mr. Loves house, in Mr. Loves study, in Mr. Loves presence: It was not one or two, or three times, which had been enough, and very well had it been for Mr. Love, if he had done as Bayns did, or as Barton did; they when they heard (though that were too much for them, My Lord, to conceal, as they have done, yet did confesse it when required) they left off when they heard of it, they would go no further in it, they knew the danger of it. Mr. Love, my lord, as you will hear anon, by what himself hath propos'd, what judgment and confidence led him to carry on this; it was a conscience of his own Covenanting interest and principles, for the Scots, and Religion that led him on to carry on this Design.

My lord, I have done with this; that is the evidence against him; for Application to it, you have heard the severall lawes read before the charge opened, that man is guilty of High treason, and is a Traitor by the lawes of the land now, that doth any way promote, declare, or publish CHARLES STUARTS to be King of England. My lord, you have heard the evidence, what Titus hath plotted, what Drake hath carryed on, what Mr. Love hath approved of, and how far he hath consented and joynd in the design. My lord, I shall say it again, if Titus and Drake be traitours, as their own guilty consciences have made themselves judge themselves so; he that flies confesseth the fact; My lord, they are fled. My lord, if they be traitours, Mr. Love must be the same with them; for Mr. Love was carrying on, and hath agreed, and concurred, and approved of carrying on the Design that Titus and Drake have acted; Consenters and Agents are to have the same punishments; in Treason there are

no accessaries. My Lord, the next point is this ; the next Act is that of the 17. of *January, 1649.* Having given you the evidence, you will give me leave now shortly to repeat the Law. The first is, for promoting *Charles Stewart*, &c. That if any person shall maliciously and advisedly plot, contrive and endeavour to stir up or raise forces against this present Parliament, and for the subversion of the same, and shall declare it by any open deed, &c.

My Lord, *Mr. Love* is pleased to expresse himself that none can accuse him, nor none have sworn against him, that he hath raised any Seditions, any Insurrection, any Rebellions ; my Lord, I cannot say it fully, whether he be guilty of that, or no ; but this I will say (the judgement I shall leave to the Court upon the evidence heard) if *Mr. Love* be guilty of any thing moving or tending towards the raising of Forces, Seditions, or Rebellions, though the thing be not done, yet, my Lord, it is Treason, those practices ; those purposes are Treason by the law, though they never come to act ; we shall not look, I hope, to see a Rebellion raised before we shall say it is Treason, and endeavour against it ; but for that, how far he is guilty upon the evidence of being instrumental of the war in *Scotland*, and to have endeavoured to have a party got in *England* ; my Lord, I shall leave it to your judgment upon the evidence you have heard.

My Lord, There is likewise another in the same law, If any person procure, invite, agree, aid or assist any Forraigner or Stranger, to invade *England* or *Ireland*, or adhere to any Forces raised by the Enemies of the Parliament, or Common-wealth, or Keepers of the Liberties of *England* ; this is High Treason ; for this you have heard the evidence what *Mr. Love* hath done towards this, still upon the same foot of account it is Treason, though but proposed and intended, though not acted ; then there is another clause upon the law, that *Mr. Love* hath insisted upon, of constituting this Court. But for those former I have said, and you shall give me leave to repeat it again, that these lawes offended against, though in time before this Court was constituted, yet this Court hath, in expresse words, commission and Authority given them by the Parliament, to take cognizance of all Facts and offences, done after that Law, though done before your Commission ; and that, my Lord, is not to be doubted, to be a very good and legall Authority : And yet for this the law that constitutes this Court, of the 26 of *March 1650.* That no person after the 29 of *March 1650.* shall give or hold any Intelligence by letters, messages, or otherwise, with *Charles Stewart*, *James Stewart*, or the late Queen their mother, or the Councell abiding with any of them, prejudiciall to the Common-wealth, or with any that shall be in Arms against the Parliament of *England*, or shall bring or send into *England*, *Ireland*, or any Dominions of this Commonwealth, letters, messages, or instructions, tending to raise insurrections or a new war within this Nation, and shall not forthwith reveal the same to the Speaker of the Parliament, or to the Councell of State, or two Members thereof, or to two Justices of Peace, shall be guilty of ; &c. that is a clause in the law that constitutes this Court. And no person shall voluntarily relieve any person in Arms, or that shall be in Arms against the Parliament, with any Money, Victuals or Ammunition, on pain of death or other corporall punishment. And whosoever shall voluntarily take up Arms against the Parliament, and shall encourage others to do so, shall die without mercy.

These, my Lord, are clauses contained in the Act that constitutes this Court ; and I read the law before the charge ; and now, my Lord, I have repeated the evidence faithfully, now let it be considered how far the evidence goes with them : There are there Acts of Parliament, I suppose *Mr. Love* knew not of the next, for he says, he knew not of that of the 2 of *August*, but it was published solemnly at the Exchange, and at *Westminster Hall* ; but ignorance cannot excuse him, that no man will pretend. This, my Lord, is in relation to *Scotland*, it was made in *August* : The Battel at *Dunbar*, I cannot well tell whether it was in *September* or *October* ; in *September* this correspondence from *Banfield*, *Argyle*, *London* and *Lowther*, *Belcarris*, *Maffey* and the rest, were all since *Dunbar* fight ; that is clear, they were since that time ; the words of the Law are these, *Whoever, after the 5. of August, shall use, hold, or maintain any correspondence or intelligence with any of the Scots nation residing in Scotland, without license from the Parliament, or with any other person or persons of the Scottish or any other Nation, whom they know to adhere to the Scottish Nation against the Parliament ; or shall abet, assist, countenance or encourage the Scottish nation, or any other person adhering to them in their war against the Parliament and Commonwealth of England, or shall send, or cause to be sent and conveyed any money, horse, armes, Ammunition, or any other furniture of Plate, Goods, Merchandise, or any supply whatsoever to the Scots, or to any port or place thereof, or in their power, or in confederacy against this nation, these facts are High-Treason by the*

this Law. And the high Court of Justice are to take cognizance of the Contents by expresse provision of that Law.

My Lord, I shall not need to repeat the evidence again, but upon these (my Lord) I must leave him to your justice and judgement to do what in your consciences you think is just upon these Laws, and what M. Love hath done in transgression against them.

My Lord, M. Love was pleased at the beginning of this Triall, to make some deep protestations, I think he did move all honest men that heard him, and truly I did think and did hope, that they were not made with any relation to equivocation, or mentall reservation; but to a positive deniall of any facts of Treason, or looking that way; that it had been made in that sense, that he had been clearly not guilty of anything: But (my lord) having looked upon them, and caused them to be transcribed to me, I doe finde that they are somewhat cautious, and perchance they may be true, my lord, in the sense spoken by M. Love, but whether true in the sense they should have been spoken by a Christian in a publick Assembly, that I shall not judge. His first protestation was, in the presence of God and this Assembly, *that I never wrote any letter to the King, or to the Church, nor to the Queen, or Church and State of Scotland in general, or to any particular person of the Scotch Nation, since the war began to this very day.*

My Lord, this may be true, but whether any letter hath been sent from the King, or from the Scottish Nation, or others, or by Masse or the rest, that shall be believed as the evidence is.

M. Love. It is in my second protestation.

At. G. Again (saith he) *I do likewise declare in the presence of the same God, I never received letter written to me from the King, or from the Queen his Mother, or from the Church or State of Scotland in general, or any particular person of the Scottish Nation since the war began. I protest & declare likewise in the presence of the same God, I never collected, gave or lent penny of money either to send into Scotland, or any forraign parts, either to the King of Scots, or to the Queen his mother, to the Church or State of Scotland in general, or to any particular person of the Scottish Nation since the war began; but that M. Love did not move others to contribute we have not a word of that. Truly, I did thinke it when hee spoke it. But it seems these asseverations were studied to evade, and that he would speake true, but not the whole truth. I have given them but a touch; these may be true, my lord, but under favour there is something else that is as true, and goes almost as neer as this.*

My lord, M. Love the last day had your patience and justice to make a large Defence, and he was very large in it; and though hee did bear us down, that are the Counsell for the Publick, that wee should not use Oratory, nor flourishes, nor Querks of Law, nor Niceties, in which I shall be guided by him, and shall not doe it; yet he is pleased fully to make use of all insinuations to the Court to trip up every Witness upon niceties, upon not expression, upon nonsense, and such (my lord) which I shall not follow him in: for I shall deale as truth ought to deale in pure nakedness and simplicity, and not to use any Oratory, but to set the matter of fact before you, and leave it unto the Court, who are the Judges between the Common-wealth and himselve for life and death. But, my lord, you shall give me leave to touch upon some few things in the late Defence of his, It was divided into four parts.

The first, the Charges the second, the Witnesses and Testimony both in one. The Witnesses for the persons, the Testimony for the fact: The third, concerning himself; the fourth, some proposalls to the Court; which truly (my lord) might better have been termed rather threatnings, than proposalls.

My lord, for the Charge, you have heard it hath been gone through, and the evidence concerning it concerning the Witnesses (my lord) I have read unto you (for I do take it upon my conscience) what I knew, and nothing but what was true, I have not varied that I know of a syllable, and I think I ought not to do it, the duty of my place requires it not from me.

My lord, concerning himself, he is pleased to say something; and much of his merit; but (my lord, it is agreed to this Court) to my selfe, and all that are well-wishers to the publick, that any man that hath been a friend to the Parliament, that hath gone along with them, acted for them, suffered for them, done as he hath done, that this man should be called to publick Justice; I hope (my lord) all that heare mee beare witness, that I thinke (my lord) wee are all sensible of it.

But, my Lord, look upon who hath been the cause of it, let that be look'd into, and every man will be satisfied in his own judgement and conscience, whether Mr. Love were provoked or no; or whether he hath not provoked the State to bring him to be thus exemplary in Justice. *M. Love says, (my lord, I shall desire to make use of the paper) I confess it is not so much the danger of my life, I am a sickly man, and I know a disease will ere long kill me, whatsoever you doe with me; but this grieves me more, that I should suffer from your hands, for whom I have done and suffered so much in my obscure station, and according to my weak measure. Had I been so dealt with at Oxford as the Junctio there I was to be so dealt withall in Westminster-hall, this troubles me.* And my Lord, it doth trouble me to deal so with him. My Lord, whether may we or himself better take up this complaint? Had the State been thus used by a Cavalier, by a posset open enemy, it had not been so much trouble to us, you would have come to Justice upon a little more desire than now: But that *M. Love*, a Minister, a Minister of the Gospel, a man that hath preached for us, prayed for us, acted with us, gone along with us, that he should go to undermine us, that he should be joynd, or in confederacy with others to undermine the State, where he did live peaceably and quietly, where none interrupted him, he had a free liberty, as much as a King in this Commonwealth: Truly that *M. Love* should do this, it is (I think) an aggravation, and not an aggravation upon the Court or State; that they should prosecute where a man is prosecuting them. What hee hath done, my Lord, you have heard; what his offences have been, and who gave the cause, that a Minister should doe this, one that had a calling elsewhere, and better to imploy himself, than to meddle with States, and Secular Affairs; and these things to be done in *M. Love's* house, and in his Study, where he should have been studying better things. My lord, next he says, I could not leave such relations as I have, nor such a loving people and competent living as any Minister hath within London, only Conscience carried me another way, and till Conscience be satisfied, I cannot stirre one jot. My lord, this his Conscience, I do not know what it hath to do in Government, or what *M. Love's* Conscience had to doe in these affairs: He had a calling of his own to use, and should I goe out of my calling, and meddle with other men, I humbly conceive, I were a busie body. *M. Love* had a calling enough for any one man to imploy himself in, and one thinks, when he says he had such a relation to a loving people, a competency of livelihood, that he should not apply himself to return to them, but to wander abroad; and when we once wander, it is hard coming in again; till penance we are fetch'd in again with the whip. But (my lord) *Mr. Love* had other relations of wife and children, which he might have look'd upon also, and taken care of them.

In the last place, he is pleas'd to say, (and that I believe hath carried on this design) *The Covenant Interest* you have heard what *Tiss* did, what *Drake* did, and what the rest did, that all this it was upon the Covenant, and the Covenant is urged, I am sure, to things the Parliament hath forbid. *M. Love* is pleas'd to declare himself still to retain his old principles, from which (by the grace of God) hee will not be taken off by any terror. My lord, you will heare by and by, what the Covenant hee supposes leads him to, and (my lord) I shall take it alunder, and bring it next, if you please, that is, the Covenant Interest. Says *M. Love*, Though I own not the way of managing my papers, I neither write them, nor send them, yet thus far I own the thing, I confess it was agreeable to my judgement and conscience, and I thought the interest of godliness would be more promoted if the King went into Scotland upon Government-terms, it would be more for the good of the Nation.

M. Love. No Sir, those are not my words, I said, than to fall in with the Irish Rebels, or to offer this Kingdom to the Spaniard. I thought a greater foundation of trouble would be laid, if this reception were not laid by that Nation; and the Covenant hath a clause in it, that we are to seek the good and union of both Nations; and they are judg'd to be incendiaries and Malignants that not only divide the King from his people, but the Kingdoms one from another.

Now they declaring him to be their King according to my apprehension, I thought it agreeable to my Covenant to pray and desire as a private man, and no more, that there might bee an agreement upon those terms confiding with Religion, and the terms of the Covenant.

Mr. Gen. But had you gone on as a private man, *M. Love*, we had not stir'd you now. My lord, this is plain of it self, what interest this Covenant-interest is, till the King & the people in the two Nations, &c. Truly, my lord, *M. Love* is pleas'd to express himself somewhat obliquely against the present Government. He saith, My Lord, When I look upon all the *Former Covenants, Declarations, Prosecutions* of both Houses of Parliament, I find a *manifest* between my judgement and them, and am not conscious to my selfe of any thing

thing I have done in opposition or contradiction thereto; I repent not of whatsoever I have done, though I could wish the ends of that just War had been better accomplished: then should we have been happy, and united among our selves, and honoured among the Nations round about us. I am so far from repenting of what I have done, both by doing, and contriving, and suffering in the Parliaments Quarrel, that were it to be done again upon the same unquestionable Authority, for the same declared ends, and against the same Obnoxious persons, I should manifest as much readinesse of mind to engage according to my measure.

After this, where he had mentioned his troubles at Oxford, when a Scholler there, and at London, when he came to a Lecture here; at Newcastle, when he spake for the Parliament there; and in Kent, when he spake against the King there; when these were over, after this he had a little breathing, whilst the two Houses of Parliament were in power: This Gentleman was troubled in the time of the King, in the time of the Bishops, in the time of these Wars, for being for the Parliament: But I appeal to his own confidence and judgement, whether ever he was troubled or disturbed by this Parliament, or by this Government of the Commonwealth, whether he had not as free and as full liberty to preach the Gospel, to instruct others, and to save souls, as his heart could wish; and I desire to know whether ever the Parliament did interpose with him, till he did interpose with us. He went out of his way, my Lord, he was quiet and safe in as much security as any of us; and, my Lord, even those that were the Watchmen for the safety of this Commonwealth, did watch and take as much care, even for his preservation, as for any one of ours, and thus he hath required them. My Lord, I will repeat it: I appeal to his own confidence, and to any of his friends here, whether ever, till his judgement and confidence did interpose in State affairs, to dispose of Kingdoms and Commonwealths, whether ever hee were in the least interrupted.

My Lord, He says himselfe, when he came to be a Lecturer in London, the Bishop would not admit of him in three years, yet (my Lord) he is admitted here three years, and none hath incouraged him; and your selfe say, you have a competent livelihood, and a people very loving to you, and you might have so continued if you would.

My Lord, His proposals to the Court, I do say, were hardly fair proposals, for they had a little of threatening in them; For (says he) if you censure rather upon a Politicall interest, then of the merit of the Fact, the Scripture counts it not justice, but murder: Truly (my Lord) I think justice is a politicall interest, the preservation of the Generall; but surely I do not think the person will come in judgement before you, but the merit of his Fact; and as yet I may say, I suppose the Treasons hee hath committed, if those find him guilty, if the Court finds him guilty of those facts laid to his charge, and if you are satisfied in your judgements, that they are proved; my Lord, it is Justice, not murder; and it is Justice, that which politicall interest requires of you, that Justice be done upon the Prisoner. And he is pleased to say in his last Defence, That he denyed the commission to be sent, and entitling the Presbyterian Party to it; and he hath acknowledged it had been very high presumption if they should have done it, and a notorious falsehood; and in that I joyn with him; and whether he hath not done so (my Lord) that I shall leave to you. That the Presbyterian name was made use of, you have had many concurrent evidences, and Mr. Love was present when these things were mentioned; and if it be a fault which himselfe hath acknowledged, it is right done to the Presbyterian party, who, I am sure will not owne him in it.

My Lord, But a word more; this last day he was pleased to mention his Sermon, which made me a little to enquire after it, it was preached at Newbridge (my Lord, I had the honor to be at the Treaty) which hath been so much spoken of, and truly I wonder this Gentleman did not remember what he said then; if you please (my Lord) I shall put you in mind of some passages: I have the Sermon here.

Mr. Attorney Generall reads out of the book which he said was Mr. Love's Sermon. There ever though it be that too much mercy towards Malignants, hath made more Delinquents then ever Justice hath done. Mercy should not weigh down Justice (my Lord, these are good instructions) in God they are both equal, why should it not be so in man? Pity to the bad, hath proved cruelty to the good; the sparing of offenders hath made many worse, few or none better (and my Lord, we know it.) If a man that have showed no mercy, his judgement be showed without mercy; much guilt contrasted, much innocent blood spilt, which either must be avenged on us, or by us. My Lord, that is one of his clauses, and here is another: 2. The Lord beate a land, by cutting off those distempered members that endanger the health of a land. (here is good Doctrine my Lord) It was the Lord troubled Achan and cut him off, because he troubled Israel:

Ob that in this our State, Physicians would resemble God, to cut off those from the land who have distempered it; I suppose he meant, or shall do; that (my lord) was his opinion then. And those who lie under the guilt of much innocent blood, are not meet persons to be at peace with, till all the guilt of blood be expiated, either by the sword of the law, or the law of the sword; and a Peace can never be safe nor just till then. What Mr. Love hath endeavour'd since (my lord) I shall say nothing; and I have but one word more, and it is this, my lord, he says it is not likely to have a peace with such men as these, the malignant party, while they continue thus. We can as soon make fire and water agree; yea, I had almost said, Heaven and Hell, as their spirits and ours; for either they must grow better, or we worse, before we can agree. My lord, I think there is little hope of their growing better, and my lord, we have not grown worse.

My lord, I shall trouble you no further, I shall use nothing of aggravation, but as justice is blinded, to let the evidence appear to you in pure nakedness.

My lord, you have heard the evidence (as I humbly conceive) in the same language, in the same habit in the same words as spoken by the Witnesses: And (my lord) having heard those, and the Lawes, and the Charge against him, upon the whole I shall humbly leave him to stand, or fall by your justice and judgement.

Mr. Love. My Lord, I humbly crave leave to speak but one word, Mr. At. Gen. hath replied to my Defence as to the matter of fact; concerning his Reply I shall not insist upon it, yet I shall humbly crave leave to insist upon two particulars.

At. Gen. If I have given any new evidence, Mr. Love ought to be heard; but (my Lord) I have declined it; and for those passages in his Sermon, I do not urge one word of evidence against him, and for the rest they are his own words which he hath said the last day, and I have brought nothing new before you, and if the Sermon preached at Oxbridge should be an occasion, I shall cast it aside.

Mr. Love. I humbly conceive there are new suggestions expressed in Court by those worthy Gentlemen, whose names I know not, nor their employments neither; but as to those I shall humbly crave leave in a word or two; and then as to the whole matter of the depositions I shall humbly offer some matter of law arising upon the whole matter given in.

At. Gen. I shall crave leave too (my Lord) and leave it to you, for any suggestions, they are but suggestions, as Mr. Love says himself, and that is nothing for the evidence: Mr. Love (my Lord) had the last day, & I should have this day had he said he had any thing to say, or if he had had any thing more, he might have said it, I did wait if he would have said any thing: But (my Lord) when the whole was clos'd, and no new evidence: I did not answer all the suggestions of Mr. Love the last day, his evidence & depositions will conclude the Court, that it is not suggestions and insinuations, the Court are above those; when the evidence is clos'd for the Commonwealth, let it be concluded there: if they offer any new evidence, Mr. Love may have liberty to answer.

Mr. Love. Though I dare not tax Mr. At. Gen. for discharging his duty in his place, yet for the preservation of my own life, I must not be wanting to my self, if your Lordship and the Court will give leave, and that is humbly to beseech your Lordship to take notice, that Mr. At. Gen. in the relation of the matter of fact in the depositions is pleas'd to raise the correspondence (as he is pleas'd to call it) as high as *Fersey*, and so makes me to be *Particeps criminis*, that I should be judged by you upon the whole matter; now *At. Gen.* upon oath did declare, that *Drake & Titus* held correspondence, & that the Ministers knew nothing of it.

At. Gen. I do not say you did.

Mr. Love. Therefore I beseech you I may not be judged upon that matter; and then I beseech your Lordship to observe that Mr. At. Gen. is pleas'd to say, he would not insist upon inferences nor strains of wit, but truly I have discerned both.

L. Pres. You totally err from the way you ought to walk in, and take upon you to judge others. The Court will consider whether he hath offer'd any thing or not, we have Notaries, and so have you; you spent the last day only in making Comments & Collections, yea that you might have some liberty of discourse, we sat here patiently two hours, and did hear that which we ought not, nor you ought to have spoken; and now you are entering the same way of inferences and collections, as though we did not sit here to take notice of what was done, but we must receive the last word from you and your Comments: if you had had new matter the last time, you might have been heard, we expected you would have brought new witnesses, but they were in the same crime with your selfe, and you would rather betray your self, then them: and God and the Truth than them; but wee will bee as carefull of any Comments as you your selfe can bee: and thinke that wee have so much piety and charity, that wee sit here

with

with as good affections of Justice and Piety, as are in your own breast; this book was not given as evidence against you, and all that is in your comments, we shall understand it.

Mr. Love. My Lord, I have only one motion, I have some matters in law to offer to your lordship to consider by way of exception to the Charge, and also to the depositions of the witnesses; I have a paper that I humbly desire might be read in Court as matter in law arising from the Charge, and from the depositions of the witnesses.

At. Gen. Why did you not this before?

Mr. Love. I am ignorant of the customes of the Court.

L. Pres. I beleve you have wronged your own breast in many things you have said, and you have said you have been ignorant, in many things that you have known very well; it is not good to dally, you will be ignorant at one time, and at another time more knowing then others.

Mr. Love. I beseech your Lordship, it is a new suggestion of the At. Gen. that concealment of Treason for a tract of time, is Treason.

L. Pres. There is no new words of suggestion; if Mr. Attorney hath not spoken it, nor read it according to the truth, we will examine it.

Mr. Love. He hath done it with disadvantage to me.

L. Pres. If he have, he shall not do it with disadvantage to us, for we will be as indifferent as your own breast; therefore be not you a commentator of that, we understand so well as God enlightens, for whether hee hath done it with advantage or disadvantage, that is our part to consider.

Mr. Love. I desire to have counsell upon this matter of law arising from the evidence; that concealment of Treason by your Acts, suppose it be for continuance or tract of time, yet by the law it is not Treason; and my counsell informs me, that the Act of the 26 of March, that constitutes this Court, gave you power to inquire into Treason, but could not take cognizance of misprision of Treason, till there was a subsequent Act; therefore I desire this favour, that seeing it is so much suggested in Court, and seeing the witnesses none can prove a personall Act of mine, to bring me under your law, as to Treason, I desire my counsell to clear this, that concealment of Treason, though for never so long tract of time, is not Treason by the law of the land.

At. Gen. I will out Mr. Love of that scruple, he is not charged for misprision of Treason, though I could have done it; but that I insist upon is flat Treason. It is true, *Thomas Witherington* was pleased to expresse it in the way of Argument, that concealment of Treason long, comes to be Treason; but here are acts, and I insist upon the evidence, and the Court will judge, for they have heard the evidence.

Mr. Love. I beseech your Lordship that the paper might be read, the exceptions that I have against the Indictment, and the matters of law arising from the evidence.

At. Gen. My Lord, Truly I professe, I hope I am not in my nature cruel, that I should do injury to *Mr. Love*; but (my lord) I cannot favour him to do injury to the law of the nation. My lord, he hath one by him that hath taken every word of the charge.

Mr. Love. I did plead upon your lordships promise, that I should have a fair and indifferent hearing, and if matter of law did arise from matter of Fact, which could not, you said, be known til the witnesses were deposed, I had your lordships promise, and I think the Courts, that I should have counsell to plead to matter of law.

At. Gen. My lord, I think here is no legislative power in this Court to change lawes. My lord, I appeal to all here, whether the evidence we gave were not closed upon Saturday, and all the depositions; whether *Mr. Love* did not take care and pains to make his owne Defence, as to matter of fact, and spent so many hours on Wednesday last. My lord, he had all before that, if he had matter of law, it was more proper to move then; but when he hath gone so far, and we have closed all, do but consider the consequence, that when this is done and all the evidences heard, then to come with matter of law!

L. Pres. *Mr. Love*, that you have said hitherto is nothing but of the same nature of that you said the last day, and the Court will take it into consideration and judge of it; but if you have anything in your paper, that is so included upon the evidence, for I tell you the evidence was ended the last day, and your reply; and if you had any thing, you should have offered it the last day; here hath been nothing new offered concerning you, but as it is usual for the Counsell for the State to state the matter of Fact to the Court, for they have the last word; but you had fully ended before, and shall we go out of the way for you, more then for a whole Generation which the law runs unto? I do not know how to do it; you had this paper in your pocket, you might have pulled it out, and you have had time in a nearer degree to it; yet the Court is willing, if you can out of your paper, by advice of Counsell, shortly read what

what

what you read upon for matter of Law, they will hear it, if such exceptions as are not of your own, but by the advice of Council.

Mr. Love gives in his Exceptions.

Exceptions taken by *Christopher Love* Clerk, To the Charge of high Treason, and other high crimes and offences, exhibited to the high Court of Justice against him, by *Edmund Prideaux* Esq; Attorney Generall for the Common-wealth of England.

These Exceptions are not here printed, for that they come in more properly afterward, being again in substance given into the Court, and signed by Mr. Loves Council, and the substance of them then debated in Court by Mr. Hale, a Councell for M. Love.

Att. Gen. My Lord, you have now some fruits of the Notary : By the law of England, he that is impeached of high Treason, is not to have the copie of the Indictment ; it is said, the Court are Judges for the prisoner, and Councell for him : To you all things be substantially charged. That there is a substantiall Charge, the evidence makes out. But this precedent being admitted, and the former of *Lithers*'s cited, I shall have little encouragement to go on with any Charge of Indictments.

L. Pref. Though it be more then the law permits, yet the Court will take consideration of it.

Att. Gen. He did read his papers : I think it is more then ever was heard of in any Court in the world : but to take his papers in by your Clerk ; I hope this is no Replication to the Charge, I hope he answers not that way ; then we shall dispute that way again : If he give papers, I may, and as Embassadors, treat by papers.

L. Pref. Mr. Love, we have gone out of our way for you, and whatever hath been suggested by the Council this day is nothing, unless they had offered new matter ; and they have offered none : and therefore it is against any law that was ever yet practised in England. You were concluded before, though haply the neglecting of it might have been a prejudice to you ; yet you have offered a paper which the Court will take as a paper to consider of.

The Court adjourns into the painted Chamber : And upon their return, the Lord Pref. speaks.

L. Pref. M. Love, our long absence upon this account may seem to you and others, that we have had something of great difficulty among us, which we have considered of. That which hath been upon your papers last offered, in which you have set down the parts of the Charge, and the Statutes, and your Exceptions ; These we have considered of. But to these, though you do affirm it here to us, that it is by advice of your Council ; yet it is not under your Councils hand, nor your own ; which in order it should be ; we have considered of them, and our examining of them hath taken up a great deal of this time we have been absent. We finde that there may haply be some mistakes in your Notes ; Therefore it is resolved, though there seem not much difficultie to us, yet you shall have Council ; thus doing, that they shall set it down under their hands, what matter of law they will argue to, and bring it under their hands upon Tuesday next at eight a clock, to this place, or to the Painted Chamber.

Mr. Love. Shall the Council have onely bare liberty, or will the Court assigne them one ?

L. Pref. If you desire it, and name them, they shall be assigned you.

M. Love. I desire Mr. Maynard, Mr. Hale, Mr. Waller, and Mr. Archer.

The Clerk was called upon to read the Order.

Clerk. Friday, the 27 of June 1651. Ordered by the High Court of Justice, That if the Prisoners Council shall under their hands assigne any matters of law fit to be argued and presented to this Court, on Tuesday next at eight a clock in the morning, this Court will take the same into further consideration.

Mr. Love. I would know whether they are assigned to plead here in Court, or to bring a paper under their hands.

L. Pref. If they will under their hands set down what they will stand to for law, it shall be considered, and they shall plead.

M. Love. I humbly thank your Lordships favour, and the favour of the Court.

Mr. Love is commanded away. The Court adjourns.

The fifth Dayes proceedings, July the 1. 1651,

These Exceptions following signed by Mr. Love's Councell, were delivered this morning by Mr. Love's Solicitor into the Court, sitting in the Painted Chamber.

Exceptions to the Charge of High-Treason, and other High Crimes, and Offences, exhibited to the High Court of Justice, by *Edmund Prideaux Esq;* Attorney Generall for the Commonwealth of England, against *Christopher Love Clerk*: And Matters of Law humbly presented to the said High-Court, according to the Direction of an Order hereunto annexed.
For this Order, see the fore-going page.

FIRST The Charge is, That *Christopher Love* as a false Traitor, and Enemy to the Commonwealth of England, and out of a Traitorious and wicked Designe, to stir up a new and Bloody War, and to raise Insurrections, Sedition and Rebellion within this Nation in severall dayes and times, that is to say, in the years of our Lord God 1648, 1649, 1650, 1651, at London and in divers other places within this Commonwealth of England, and elsewhere, together with *William Drake*, and divers other persons, did traitorously combine, confederate, and complie together, to stir and raise Forces against the present Government of this Nation, since the same hath been settled in a Commonwealth and Free-State, without a King and House of Lords, and for the subversion and alteration of the same.

The Act of the 17 of July 1649. is, That if any person shall maliciously or advisedly plot, contrive or endeavour to raise forces against the present Government, or for the subversion or alteration of the same; and shall declare the same by open deed, that every such offence shall be Treason.

Exception 1. The words *Maliciously or Advisedly* are left out of the Charge.

2. That the words of the Act are omitted, which are, *Plot, Contrive or Endeavour*,

3. It is not Treason within the Act to plot, contrive, or endeavour, to stir up or raise Forces against the present Government, or for the subversion or alteration of the same, unless the same be declared by some open deed. But the Charge is, That *Christopher Love* did combine, confederate, and complie, to stir and raise up Forces against the present Government, &c. and it is not charged that he said *Christopher Love* did declare the same by any open deed.

Secondly, Whereas the said *Christopher Love* is by the said Articles charged, that for the subversion, and alteration of the same, and to carry on the said traitorous Designe, that he did Traitorously and Maliciously declare, publish, and promote the eldest Son of the late King to be King of England (meaning this Commonwealth) without the consent of the people in Parliament, first had, and signified by Authority or Ordinance to that purpose.

The Act of the 30. of January 1648. is, that no person do presume to proclaim, publish, or any way promote *Charles Stuart*, son of the late King *Charles*, commonly called, the Prince of Wales, or any other person, to be King, or chief Magistrate of England, by colour of Inheritance, Succession, Election, or any other claim whatsoever.

Exception. It is not expressly charged that the same was done after the said Act made, neither doth the Charge pursue the words or intent of the Act.

Thirdly: The Charge is, that to accomplish the said traitorous and wicked designe, the said *Christopher Love*, on severall dayes and times in the years aforesaid, at London &c. together with *William Drake* and other persons, did traitorously and maliciously invite, aid and assist the Scots, being Strangers, to invade this Commonwealth of England, and hath adhered to the Forces of the Enemies raised against the Parliament.

The

The Act of the 17 of July 1649. is, that if any person shall procure, invite, aid or assist any Forraigners or Strangers to invade England or Ireland; or shall adhere to any forces raised by the enemies of the Parliament or Commonwealth, or Keepers of the Liberties of England; every such offence shall be taken to be Treason.

Except. 1. That it is not alledged in his Charge who in particular were the Strangers that were invited to invade England.

2. That it is not alledged, that at the times of the invitemēt, aid and assistance laid in the Charge, the Scots were Strangers.

3. That it is not alledged particularly in the Charge, to the Forces of what enemies raised against the Parliament, *Christopher Love* did adhere.

4. It chargeth the Prisoner for a treasonable assistance in some yeers that were before the said Act of the 17 of July 1649 was made.

5. To advance the said traiterous and wicked designe, is uncertain to what designe it shall have reference, severall charges of treason being before expressed.

Fourthly. The Charge is, *That Christopher Love, divers dayes and times between the 29th of March 1650. and the first day of June 1651. at London &c. did traiterously and maliciously give, hold, use and maintain correspondency and intelligence by letters, messages, instructions or otherwise, prejudiciall to this Commonwealth, with Charles Stewart son of the late King, with the late Queen his mother, and with Henry Jermin, Henry Piercy, and divers other persons being of Council and abiding with Charles Stewart.*

By the Act of 26 March 1650. the matters charged herein are onely prohibited, but are not made Treason.

Except. 1. That this charge is mislaid, being charged to be done traiterously.

2. The charge is uncertain, being alledged in the disjunctive (or otherwise) and shews not in what other manner.

Fifthly. The Charge is, *That Christopher Love, within the times, and at the places aforesaid, did traiterously and maliciously use, hold and maintain correspondency and intelligence with divers persons of the Scottish Nation; that is to say, with the Earl of Argile, and others of the Scottish Nation, and with divers other persons of other Nations, whom Christopher Love well knew to adhere to the said Scottish Nation in the War against the Parliament.*

The Act of the 24 of August 1650. is, that all and every person that shall use, hold or maintain any correspondency or intelligence with any person or persons of the Scottish Nation, residing in Scotland, without the license of the Parliament, the Councell of State, or the Lord Generall: or with any person or persons of the Scottish or any other Nation whom they shall know to adhere to the Scottish Nation in this War against the Parliament.

Except. 1. That it is not laid, that the persons of the Scottish Nation mentioned in the charge, were residing in Scotland, nor expressly alledged that they did adhere.

2. That it is not averr'd that such correspondency was holden without the license of Parliament, Councell of State, or the Lord General, nor in what war the correspondency or intelligence was held.

3. It is not laid with what particular persons of any other nation adhering to the Scottish Nation, correspondency or intelligence was holden; nor of what Nations.

4. This correspondency and intelligence is not laid to be after the 5 of August 1650. mentioned in the said Act of the 24 of August 1650. but refers to a time preceding that Act.

Sixthly. The Charge is, *That Christopher Love, within the times and at the places before mentioned, did traiterously and maliciously abber, assist, countenance and incourage both the Scottish Nation, and divers other persons adhering to them in this War, against the Parliament. And did send and convey, or cause to be sent and conveyed, Money, Arms, Ammunition, and other Supplies to Scotland and other places, and to the said Titus, &c. in confederacy against this Nation, without license of the Parliament of England, or Councell of State, or Generall of the Army.*

The Act of the 24 of August 1650. is, that no person shall abber, assist, countenance or incourage the Scottish Nation, or any other person or persons adhering to them in their war against the Parliament and Commonwealth of England; or shall go, or send, or cause to be sent &c. any money, Horse, Arms, Ammunition, or other Supplies into Scotland &c. or to any person under their power, or in confederacy with them against this Nation, without the license of the Parliament of England, Councell of State appointed by their authority, and of the Captain Generall of the Parliaments Forces as aforesaid.

Except.

Except. 1. That there are no particular persons named, who were abetted, assisted, countenanced, or encouraged, neither of the Scottish Nation, nor of any other persons adhering to them.

2. In the Charge, the sending of money, &c. is laid to be done without the license of the Parliament of England, or of the Council of State, or Generall of the Army.

The words of the Act are, without the license of the Parliament of England, or Council of State appointed by their Authority, or of the Captain Generall of the Parliaments Forces.

3. The time to which this refers, is between the 29 of March 1650. and the 1. of June 1651. and so it takes in the time between the 29 of March 1650, and the 24 of August 1650. which is before the making of the Act.

Seventhly. The charge is, *That the said Christopher Love, at the times and places before mentioned, did Traiterously, and Voluntarily relieve the said Syllas Titus, and one Sierks a Scotchman, which then were and yet are under the power of the Scottish Nation, and in Arms against the Parliaments of England, with Money, Arms, and Ammunition.*

By the Act of the 16. of March 1650. the matters charged herein, are only prohibited, but not made Treason.

Except. 1. That this Charge is mislaid, being charged to be done Traiterously.

2. It is laid to be at the times before mentioned, whereas there are severall times before mentioned; so as it is uncertaine to which of those times this Charge relates.

3. And of these times sundry of them are laid to be in severall years before the making of the upon Act which this Charge is grounded.

Allegations by Christopher Love touching the matters and proof upon the Charge.

Though I do not conceive any sufficient proof is made of the Charges against me, yet I shall be ready to make it appear upon proof.

That one of the principall witnesses hath deposed against me upon promise of reward, and upon menace of punishment.

That one hath received extraordinary rewards for his deposing.

That diverse of the witnesses against me have been by their owne confession detected of contributing of supplies and assistance, sending and receiving letters, contrary to the late Acts.

That no two lawfull witnesses produced prove any one Treasonable fact.

That no witness doth depose further then concealment, or misprision of Treason at the most.

Christopher Love.

As this case is stated, we conceive these questions may arise.

1. Whether in this case these be lawfull and sufficient witnesses, as by law is required.

2. Whether here be two lawfull witnesses.

3. Whether any concealment of Treason be Treason within the late Acts.

We have not seen any Authentickall copies of the Charge or Evidence; but upon the copies wee have seen, we humbly conceive fit to tender these matters and Exceptions to the consideration of this High Court. And wee shall be ready to speak to them, or any of them, or to any other matters arising upon the case as we shall receive further directions.

Matthew Hale.

John Archer.

Thomas Waller.

After the Court had received the precedent Exceptions, and were sat in Westminster Hall, Mr. Love was commanded so to be Bar.

When Mr. Love appeared at the Bar, he desired the Court that his counsell might be heard so these Exceptions. And when Mr. Archer and Mr. Waller, who were of his counsell, appeared in Court, the Court demanded of them, whether they were of Mr. Loves counsell? they answered, they did understand they were assigned to be of his counsell by the Court; then the Attorney Generall demanded of them, whether or no they had subscribed the Engagement; they answered, they had not done it; and spoke further so; this purpore, that they were by the Court assigned to be of Mr. Loves counsell, and were sent

sent for into the Court, and in obedience thereunto they had appeared, and were ready to speak, if they might be heard. It was demanded of them by the Court, whether or no they would subscribe the Engagement? they answered, That they desired time to consider of it: and so withdrew.

After they had withdrawn, Mr. Love moved the Court that Mr. Hales, another of his counsell, might be sent for.

— Upon the coming in of Mr. Hales, the Lord President said,

L.P. You come as counsell for M. Love, the Gentlemen that were here, are brought into an incapacity of doing him service that way; we asked them whether they have ingaged; we doubt not you, but tell you the reason why we did it.

Mr. Hales. My Lord, I have done it.

L. Prof. Therefore you are assigned.

Mr. Hales. I had very late notice of this business, it was Saturday night last before I had notice of it, and the next day was not a day to think of those things. Yesterday was Monday, and the most part of that day I spent in looking over those things that had been (I think) presented to your Lordship and the Court; we did not know what command your lordship would put upon us, whether you would admit us to speak, and to what you would admit us to speak, and when you would admit us to speak. It is impossible (my lord) I must deal plainly, I profess it is impossible for me, in a business of this great consequence, to undertake to speak any thing for the present, till such time as I know your lordships directions, and this was that we acquainted this Gentleman with as soon as ever I saw him, and the first time that ever I saw him, which was but this day.

Att. Gen. I think that Mr. Hales hath put somewhat under his hand.

Mr. Hales. We have done so.

Att. Gen. May you must stand single, the other two are set aside, & must be you only, I suppose Mr. Hales knows what he is to speak to.

Mr. Hales. Truly we know what we are to speak to, but to speak upon such a business on such a sudden, when we did not know what direction the Court would give, that I could not undertake, and I think Master Attourney will not presse it upon us, it were a hard case if he should.

Att. Gen. Mr. Hales knows as well as any man what is to be done in these cases, none better then himselfe, the Court wth not to assign counsell to pick flaws, but those that are just exceptions, and the Court is doubtful too, how they will allow counsell to debate them, and stand to the judgement of the Court. I suppose he comes to speak to that that the party hath alledged.

Mr. Hales. It is true, we do so; but Mr. Attourney General knows likewise, that when matters of law are assigned, that there is some reasonable time, we expect not long, but some reasonable time to be assigned also for the parties to prepare themselves, for truly otherwise I should not do that duty I ow to the Court and my Client, if I should speak *ex improviso*, in such a manner as I have done; for the first time I saw any thing of it, was on Saturday night, between eight and nine of the clock.

L. Prof. Though that was the first sight of this paper, as it is now set down, it was not the first notice you had to be of his counsell, but himselfe hath declared it here long agoe, that the former paper was by your advice.

Mr. Hales. No (my lord) if he did so, I will plead not guilty.

L. Prof. I will not say your name, but when he gave us in his paper, before this, the last day, you said it was the advice of your counsell.

Mr. Love. Not Mr. Hales.

L. Prof. Then happily we shall ease you a great deal; that that is under your hand, is very short, and we shall ease you of some of that too; and you know that upon all assignments in the Upper Bench and common law, when they first open it, they show some causes upon which they will argue it, and when you have had time already, now know something that may be worthy of it, and we will consider of it.

Att. Gen. Before he speak (my lord) I desire that he will give it under his hand positively, not que- ries but positive, that this in his judgement he thinks fit to be matter of Law, and to be argued.

Mr. Hales. My Lord, we think that these things are such.

L. Prof. Then you must upon the first sight open it so far, that it may be your judgement.

Mr. Gen. But not suffer it to be debated unless you think it doubtful.

Mr. Hales. We are here assigned counsell for him, and if your Lordship will please to give us that time.

time that may be convenient for us to doe our duty for him, if not, wee shall doe but your Lordship wrong, and our Client wrong if we should speak.

L. Pres. You may have some convenient time, but you must open it now, that we may judge what time is proportionable; if you will not open it, that this is the point you will argue upon, we can say nothing.

M. Hales. Then the reading of that which we have exhibited to the Court, will be as much as possibly I shall be able to do at this time, for we have had no copy of the Charge. *L. Pres.* Nor must have.

M. Hales. And we have taken a copy at random, according as it hath been offered to us by those that have taken notes, and we have presented upon those Notes, and we have applied our selves to *M. Attorney* for a copy of the Charge, and he conceived that it was not fit for him to do it without direction of the Court; but for a copy of the Charge when Exceptions are taken, it is usuall to have it granted; and for us to speak and spend your lordships time upon matters that are contained in a Charge, whereof for my own part I never heard, and which is usuall upon Exceptions offered to be granted, it would be very—

L. Pres. It is an excellent thing to speak to men of understanding; did you ever know an Indictment in this nature, a copy of it delivered upon the prisoners prayer?

M. Hales. Yes, I have known it very often.

L. Pres. He shall, as his memory serves him, speak to the substance, but to have a copy of the Charge, I take it, you have not known.

M. Hales. Thus far I have known it, I have been commanded to be of counsell with persons that have been impeached of Treason by the Parliament, I know that the Archbishop of *Canterbury*, when hee was impeached of Treason, had a copy of his Charge, that I know he had; I know this is the usuall course, that if a person takes Exceptions to a matter contained in an Indictment, though it is true, he shall not have the copy of the whole Indictment, yet he shall have a copy of so much whereupon his Exception growes; that hath been done, and will not be denied; but for the other matter, I know that in the Archbishop of *Canterburies* case there was a copy of the whole Charge granted, and the like was done in the case of the Lord *Strafford*.

At. Gen. I shall give that answer a little more then I did, Parliamentary proceedings are no rule for other Courts to walk by; besides (my lord) you sit here upon a known published Law, and the offence charged is against those Laws: I believe *M. Hales* well remembers, that both my lord of *Straffords* case, and the Archbishop of *Canterburies* case were both of them for many severall facts severall times a long time committed, which severall facts being judged by Parliament, were judged to be Treason not against any settled positive Law: And for *Straffords* case, you know how the judgement, at last was given by Act of Parliament, King, Lords and Commons. And for the Archbishop of *Canterburies* case, you know what the severall complaints against him were, many of them not Treason, but so many of them together, that in Parliament they thought fit to judge him guilty of Treason; but those privileged are not to be paralleled, he knowes very well it was not against such, and such, and such a law, to make those offenders Treason. Having given thus much favour, I may say, to the Prisoner, that he may by memory exhibit his Exceptions, he hath done it, if you judge that those Exceptions are worth the debating, be worthy of it, you may (as *M. Hales* saith) give directions for so much to be given him, otherwise (for my part) I did never give it unto any; but those that have been in my place before, did never give it but by immediate Warrant from the King, or the Parliament now, but for so much as the Court thinks fit, for so much as concerns the Exceptions.

Sir Tho. Witherington. For that that *M. Hales* objects to the Indictment, it stands with a great deal of justice; for if a prisoner layes hold of part of an Indictment, and say there is a mistake in it, there is reason it should be so, because the Court must judge it whether it be so or not, therefore there is necessity of it that there should be a copy of so much; but I think he never knew what all the Indictment was, but that part, and that is of necessity for the Court, that they may see whether the Exceptions accord with the Indictment or no; if there be any Exception to an Indictment, if that Exception remains not as a doubt or question, there shall be no copy of so much of the Indictment given: if he shall raise a doubt that there is any doubt in law, or any question and variance between the Acts and the Charge, if he shall raise any such doubt, then I think according to the old law he may have that part of the Charge; but we desire he may raise some doubt to the Court.

M. Hales. My Lord, we have raised the doubts, and we are ready to deliver in those that we conceive to be Exceptions to the Charge, if we be over-ruled in them, we have no more to say; but if your Lordship upon the view of these things we have offered, think them worthy to be spoken to before your Lordship, then surely that is agreeable with that very rule which the Council of the State is pleased to state; that is, that in case we alledge that which the Court shall thinke fit for us to debate before them, that then we may have that whereby it may appear whether we debate upon that which is, or is not.

At. Gen. *M. Hales* saith he hath given them in, but I have seen none of them, my lord.

L. Pres. Whether their memory be perfect or imperfect, that we shall help you withall, and then I will tell you what you were best to do, for time goes away: we will before you take it, take the severall Statutes and the Charge, and your Exceptions, and compare them altogether before you, and you shall except to every one as you go. *At. Gen.* I desire the exceptions may stand as they are.

L. Pres. I, but hee shall see whether there be any materiall variance between the Notary and the Charge.

At. Gen. That Notary was upon favour too, *Mr. Love* will acknowledge it.

Mr. Love. I do with all thankfulness acknowledge it, my lord.

At. Gen. I desire it may be no president for after-times.

The Clerk. If you please, read your Exceptions.

M. Hales. My lord, we begin with the first, and these are the Exceptions: We take it that Charge is grounded upon the Act of the 17th of July, 1649. and we take some Exceptions to that first part of the Charge, that is, concerning what offences shall be adjudged Treason.

L. Pres. Read your Exceptions, and then you shall hear the Charge.

M. Hales. Our Exceptions are these; first, that whereas the words of the Act are, *That if any person shall maliciously, and advisedly plot, contrive, or endeavour to stir up, or raise Forces against the present Government, or for the subversion or alteration of it,* that the words maliciously or advisedly, are left out of the Charge, which we conceive are materiall words. *At. Gen.* Read.

M. Barnard the Clerk. *That be the said Christopher Love, as a false Traitor and Enemy to this Commonwealth, and Free-State of England, and out of a traiterous and wicked design to stir up a new and bloody war, and to raise insurrections, seditions, and rebellions within this Nation, did severall dayes and times, in the severall years of our Lord, 1648, 1649, 1650, 1651. at London and in divers other places within this Commonwealth of England, and else-where, together with William Drake late of London Mercer, Henry Jermin late of London Esquire, Henry Piercy late of London Esquire, Richard Graves late of London Esquire, Edward Masly late of London Esq, John Gibbon late of London Gentleman, &c. and other their complices yet unknown, did traiterously and maliciously combine and confederate themselves together, and plot, contrive, and endeavour.*

At. Gen. What say you *M. Hales*?

M. Hales. Now we find what the inconvenience is of coming to put in our Exceptions, when we have not a cleer copy of the Charge, and that was the cause why we did subjoyn this, that in case any mistake arise by mistake of the copies, that we may amend: it is true, we find maliciously is in.

At. Gen. Traiterously will be enough.

M. Hales. I think not, that is over; for if it be maliciously alledged, that is over. Then the next thing we except to, is, be traiterously combined, confederated, and plotted together; it is true, there is plot in it, but there wants the words contrive and endeavour, but that is not the principall matter we stand upon. *The Clerk.* They are in.

M. Hales. Then that is answered too. The next Exception that we take to the Charge is, that the Act upon which this part of the Charge is grounded, sayes, that he must manifest it by an overt Act, by an open deed; now we say, there is (as we conceive) nothing charged upon him in pursuance of this Act; that is, there is no overt, or open deed laid in the Charge, for the words of the Act are so, *that if any man shall maliciously plot, contrive, and endeavour to stir up, or raise forces against the present Government, and shall declare the same by open deed, that then every such offence shall be Treason.*

At. Gen. If *M. Hales* hath read the copy of the Charge as it was taken, I think he findes divers of them in the Charge of open acts.

M. Hales. The business is not whether there be open deeds, but whether they are applied to this Act, or be Substantive Charges of themselves.

At. Gen. I would ask him, whether that open act must be in the Inditement, or in the Evidence?

M. Hales. In the Inditement; it must be expressly laid in the Inditement, or els it is no good inditement.

At. Gen.

At. Gen. But for that, that we may not dispute upon those things, my lord, there are the severall Charges against the severall Acts; there are severall open Acts that are laid in the Indictment, and (I think) if he look upon it, he will find that they are laid to every one of them, and relate and refer to every one of them.

S. Tho. Withers. There is writing of letters, contributing of money, and receiving of messages.

Mr. Hales. That will appear by the subsequent parts of the Charge.

L. Pref. The subsequent parts of the Charge will make that appear, for if he did lend money, &c. if they be really there, we shall hear it by and by.

M. Hales. I take it, that the law is very plain, that the Act must be mentioned in the Indictment.

At. Gen. But we will not debate that when we are expresse in the thing, we are not so tyed to form, as to pin them to every word of it.

The Clerk. *And further to carry on and accomplish the said wicked practice and design; be the said Christopher Love, divers dayes and times betwene the 29th of March 1650. and the first of June in the year of our Lord 1651. at London and other places as aforesaid, did traitterously and maliciously give, hold, use and maintain correspondency and intelligence by letters, messagers, instructions, and otherwise.*

L. Pref. These are open acts.

Mr. Hales. Then favour us in this, we take it that between this, and the first Charge, there comes a particular charge, that relates to *Charles Stewart*, that is intervenient between the first charge, and this that is now read, or else we are mis-informed by the Prisoner; and if there be so, then we think our Exceptions will take place.

S. Tho. Withers. It is all contained in one Indictment, and then that that explains the overt act follows afterwards, as a distinct thing in the Indictment, and so it was in my Lord *Cobbams* case in that Indictment, and in my Lord of *Essex* his case.

L. Pref. He may make overtures.

M. Hales. We confesse it; but we suppose it very certain, that both as this Act is penn'd, and as the Act of — is penn'd, which are much at one, as to the manner of penning them, there is of necessity an overt act to be laid to make good that general Charge; that, we conceive, will be plain; and that is admitted and agreed by the Lord *Cook* in his collections of the Pleas of the Crown, fol. 12. 13. where he saith, the Indictment of the *Earl of Somerset*, in the time of Edward the 6th, and all other of the like form, were against Law, because he said, that he did not follow the words of the act, and that he did it *per aptum factum*, and shews not what that open deed was; that was not a good indictment, for the fact must be set forth in the indictment; that must be done. Then the question is, whether this be so done here or no? we conceive by this Charge it is not so done here, upon this ground; we say, there follows after this a particular charge concerning his promotion of *Charles Stewart*; and then subsequent to that, there follows this that the Court hath now read; we say, that in this case here is not a charge of an overt act, neither by the one nor by the other; there is not a charge by the former, because that is a distinct treason made distinctly treasonable by another act; and therefore that which is made a distinct charge of treason by another act, shall not be an overt act within the former: That is one thing we say. And another thing we say is this, that in this case, the second, that is that which the Court hath been pleased to direct to be read to us concerning his holding correspondence, that shall not be an overt act relating to the first charge; for it is an uncertain relation: for there be two designs mentioned before, the one is a designe contained in the first charge, the other a designe contained in the second charge, for the promoting of *Charles Stewart*; and we say, the third shall not be coupled up to the former, because it is a distinct Charge of Treason in it self, and because it is uncertain to which it relates; for it refers not more to the first Charge then to the second concerning the promoting of *Charles Stewart*, that is called the Prince of Wales.

L. Pref. For this, I take it for the present, that the Charge is founded upon four Statutes, if he lay the offence against the first, second, third, and fourth, and he shall come and conclude it without relation to any particular of these Treasons; he did thus and thus by letters and correspondencies, that will relate to them every one, though it come but in the conclusion; and though the Statutes be various, yet the indictment is but one, and he may put in this of the overtures in one place sufficiently, to be a sufficient overture to every one; and therefore though to one of them there should be no overture in it at all, but *valere ut valere possit*, it will hang upon so much, as it will bear an overt act, and then you will not deny but that those words are overtures.

Mr. Hales

Mr. Hales. It is true, they are so, but yet still we conceive this third, which we call the third Charge, that is concerning holding correspondence, the third or fourth, I cannot tell which it is, but it is one of them; we say, that that is not an overt Act applied to the first Charge; when we come to the substance of that Charge as it stands by itself, then our Exceptions will rise upon it, as it stands singly by itself; but we conceive that shall not be a Supplementall Charge to make good that first Charge, that is concerning endeavouring to subvert the State as it stands established, it shall not be used as an overt Act to make good the first Charge; when we come to that particular Charge, that is concerning the maintaining of correspondence, whether it be a good Substantive Charge of itself, then we shall offer our Exceptions to that; but in the mean while we are but upon debate of the first, whether the first containeth such a Charge, as by the Act of the 17th of July, 1649. is required.

At. Gen. My Lord, we are heard before you concerning it, Mr. Hales will find that after all these laws are repeated, and after all his offences against those laws are repeated, it is concluded that all are against the severall Acts of Parliament, in such cases made and provided; if Mr. Hales will single them, the impeachment doth not, but relates to all of them; and, I think, that in this way of impeachment we are not tied to those very aice and strict formal rules upon indictments, but if substance doth appear, it doth appear to you, my Lord, that in substance the Acts are pursued, and that upon the whole impeachments there are, even this that is required, the expression of an open deed, an overt Act, those are laid, and it will be acknowledged by Mr. Hales, that they are in themselves sufficient, being thus express and concluded, that those severall practices and designs, and Treasons, are against the form of the severall Statutes, in that case made and provided, not in relation to the 17th of July, nor the 2^d of August, but to all of them; and I believe that all of these facts, all of this Treason, all of this Design, whether with the Scotch nation, or members of the Scotch nation, or those adhering to the Scots nation, had all but one foundation, the subversion of this present Government, that was the foundation and Treason of the whole, that was it that was intended; for to bring one in, and not to cast out the other, would have done no good; but upon the whole, that was the Treason; and upon all these circumstances and open deeds, and designs, the sum, though it be a Treason to hold correspondence, though it be a Treason to promote Charles Stewart, though it be a Treason to do other things, yet the Treason is in this, the Scots Nation to come in with intent to subvert the Government, Charles Stewart to be made King to subvert the Government: so that the grand work, at heart, at root, was the subversion of the present Government; and as for that, I wish heartily for Mr. Love's sake, there were not so many open deeds express by him.

S. Tho. Wither. Mr. Hales speaks of the Charge, the words are these; *And further so carry on and accomplish the said traitorous and wicked Practice and Design, be, the said Christopher Love (now this I take to be the overt Act) divers dayes and times between the 25. of March 1650. and the first of June 1651 at London and divers other places, as aforesaid did Traitorously and maliciously, use, and hold correspondence and intelligence by letters (those are open acts) Messagers, instructions and otherwise, so the prejudice of the Commonwealth; and these are laid within the time, and not a distinct Charge, as Mr. Hales would infer: but they do directly set forth an overt act done by Mr. Love.*

Mr. Hales. Is it your Lordships pleasure I should reply anything, because I come utterly unprovided for it, I must profess.

At. Gen. We may give him this, and one or two more.

L. Pres. Go on Master Hales, if you have that that is materiall for another reply, do; but take this, Master Hales, I take it very strong both in Grammer and Logick too, as well as in Law, that when all the whole charge is radically and fundamentally but one Treason, though there be many branches of it, the Charge hath link them altogether, and made but one act of so many complicated Treasons as here are, and when he comes to the latter end, if some of them were *De facto*, not by an overt deed published, yet if he come and prove that it was so done by the proofs, that there was correspondence, and these things *De facto* done, and that charge *De facto* done, you cannot break it there, to say that this fact did not reach to all; for if there be any one, it is sufficient; but here it is so all, even to that one that you speak of.

At. Gen. My Lord I shall read a word to Mr. Hales, *At which Treasons and Traitorous and Wicked practices and designs of him, the said Christopher Love, were, and are so the apparent hazard of the publick peace of this Commonwealth and Free State, Parliament and people of England (Mr. Hales findeth not these in any Indictment), and to the manifest breach, contempt, and violation of the laws of this land, and*
contrary

contrary to the form of divers Statutes and Acts of Parliament in such case made and provided, in general, my Lord.

M. Hale. We conceive, under favour, and we think that it cannot be denied, that such a conclusion will not serve the turn. At. Gen. No, not in an Indictment.

Mr. Hale. If there be a substantial part of the Charge omitted, that ought to be alledged in fact, it is not the conclusion, *that contrary to the form of the Statutes in this case made and provided*, will help it. My Lord, (I come unprovided) the case of my Lord Dyer, that known case upon an Indictment for Recusancy, or for a wilfull or knowing harbouring of a Jesuite, or Priest: Seith my Lord Dyer, *It is not enough to say, he did harbour him contrary to the form of the Statute, but hee must say, he did it knowingly: he must alledge and pursue the substantiall words of the Act of Parliament.* And so again, an Indictment for absenting from Church; it is not enough to say, *he did it contrary to the form of the Statute*; but that he did it *obstinately*. Therefore that generall conclusion, *that this was to the hazard of the Commonwealth* (it is true, it is an ill thing for any man to do such a thing that is to the hazard of the Commonwealth) but those words serve not the Statute neither; and then to say at the conclusion, *Contrary to the form of divers Statutes*, that will not help it, under favour, in case of an Indictment. Then Mr. Attorney makes a difference between the case of an Indictment, and this Charge. I conceive that in this case there is no difference; the matter is the same, the one concerns the life of a person, and so doth the other; the offence is the same, the one is a charge of high Treason, and so is the other. It is true, those formalities that concern the manner of the Trial, those (it is true) are laid by, because here is no Jury to come before your Lordship; but your Lordship tryeth upon the hearing of the testimony, and according to things alledged and proved: But for other matters that especially are substantially required by the Act of Parliament, wee conceive that those shall be supplied no more by an intendment in case of a Charge before your Lordship, then in case of an Indictment for Treason: To this I shall say no more, but leave a word or two to your Lordships judgment. For the other thing (we are still but upon the first Charge, the first Article) it hath first of all been insisted upon, that an overt act is not necessary to be alledged, because supplied by the words of the conclusion, *Contrary to the form of the Statute*: To that I have answered, I conceive, it is not, nor can't be supplied, because it is a substantiall thing in the very words and bowels of the Act, and cannot be supplied by a generall conclusion. Then it hath been said by Sir Thomas Wubington the States Sergeant, that in this case those subsequent matters and charges shall be an overt act within the Statute; that is that which hee hath read to you: It is in the fourth Article (as I take it) *That Christopher Love, divers times between the 29 of March 1650. and the first of June 1651. did traitorously and maliciously hold and use correspondence and intelligence by letters and messagers. But that cannot be: I may say it, that is not a sufficient manifestation of an overt Act, because these do precede it these particular Charges of Treason within particular Acts of Parliament: why then, if he be to maintain his designe, for the carrying on of his designe aforesaid) this should be said to relate to the first designe, why not to the second designe, of promoting Charles Stewart to be King? And why not to the third designe? So that where there are three severall designes before, all made Treason by the Acts of Parliament, that cannot be an overt act to make good the first part of the Charge, with submission to your Lordships judgment. And then another thing wee say. That this Charge which Sir Thomas would carry up to the first Charge, and make it as an enforcing and overt act within the first Charge, that cannot be, for this other reason; because it is charged as a traitorous distinct act in him. Now we have this learning delivered by Sir Edward Cook in his Comment upon this, in the 35 year of Edward the third: That is, where there are severall acts made Treason; the one is an act for leaving off of war: Now where the case was Treason against the person of the King, Queen, Prince, &c. that one part shall not be an overt act in case of Indictment, shall not be construed as an overt act for the making good of another part; because where all are made equally traitorous, and all are charged as equally traitorous, wee think, with submission, those parts shall not be made an overt act as another Treason. So when here is a Treason made by the Act of the 17 of July, and another by a subsequent Act, that which is charged as a Treason in the subsequent Act, shall not be said to be an overt act for the making good of the former: if the former be not a Treason able to maintain and support it self, this subsequent act shall not serve as a bolster to uphold it, and to supply that which is laid as a distinct treason of it self. Now these are the three things we insist upon: First, That an overt act is necessary to be laid. Secondly, That it is not supplied by the generall conclusion, nor can it be. Next of all,*

That

that this act that is here laid to be done, traitorously to hold correspondence and intelligence, it refers no more to the first designe, then to the second or to the third designe, which are charged as three distinct Treasons; and this is charged as a distinct and positive Treason of it self, and therefore shall not be carried over as a supplement to another.

Att. Gen. We granting that an overt act is necessary to be express'd; grant it should be so, but no more but in evidence: and then granting in the next place, that the generall conclusion will not be sufficient to maintain it, when it is requisite an open deed should be express'd. Then for the third, I cannot be of his judgment in this way of impeachments; but as we see one person may commit four or five treasons, and one act may be an offence against four or five Acts of Parliament; and this is the truth: for where the severall acts are repeated, that (my Lord) are those lawes against which this treason, and this treasonable practice and designe is laid to be; then follows the severall enumerations of those practices, designes, and open acts of his now applied by us. But Mr. Hales would take them and apply them to one singly; But I observe to your Lordship, that those open acts of his are offences by an open act against the severall Acts of Parliament; but it serves his turn for his Client to apply them so: but I hope you will not apply them so; but when they come between the offences, and the overt acts follow it, and the conclusion upon the whole, that all those traitorous and wicked practices and designes are against the severall Acts of Parliament: And if there be an open act so express'd in the impeachment, that in law is an open act, suppose it should be required to be express'd; if there be an open act, then I hope you will be satisfied when it hath been well proved; if it be express'd in the Indictment an open act, that I hope will satisfy your judgments and consciences; especially when open acts shall appear to you to be an offence against the Acts of Parliament: I shall leave this to your judgment, and trouble you no further; and you will finde in its place whether it be requisite or not.

L. Pres. That that Mr. Hales said, if it were a thing of absolute necessity in an Indictment, then the conclusion will not help; if the thing were of absolute necessity there charged, and not charged *contra formam Statuti*, will not do it: but if I understand it right, it is fully laid in this Charge, that he did by open and over-acts do the thing; it is laid so, the words of open act are not, but the variety; that is, that he did by writing, by words, by messages, by money, and these are really overt acts, though he did not call these overt acts; these are laid fully in the Charge: and then, if they be laid fully in the Charge, and we satisfied in the full proof of that Charge, that we have heard overt acts to maintain it, then I think this cannot come within any of those cases, that when an essentiall thing is left out of an Indictment, there the conclusion will not help: this I conceive so far. Then the next, What method or order this can be, by setting down the Statutes, and then withall these overt acts of letters, of messages, of money, will reach to every one of the qualities, that these Treasons are manifested by this act; but if it were a treason of such a nature, that none of these could reach to the manifestation of it, then you say well; but when these words reach to the manifestation of every charge laid in the Charge, then it is effectually and really, and the conclusion is sufficient.

Att. Gen. Before he goes to the next, I shall crave your direction in it; for I profess, my Lord, to you, that I in drawing the Impeachments, take not my self to be so strictly tyed to the forms of Indictments in letters and syllables; and the forms I have taken and do take, are those that have pass'd heretofore, and I follow them; and till I receive your direction to the contrary, I take not my self bound but to expresse the substance of that which is laid to his charge, by which hee may know his Offence, and give an answer: But to formes, and quiddities, and niceties, I conceive I was not bound to that.

Mr. Hales. I presse not formes, nor quiddities, nor niceties in this businesse. The next is, concerning the charge of promoting the Prince of Wales.

Att. Gen. No, there is no such thing in it, your copy is amisse again; read it.

Mr. Hales. Our Exception is this, (wee have been but upon the first all this while, I take it so) the next is, That he did traitorously publish the son of the late King of England, to be King of England (meaning this Commonwealth) without the consent of the people in Parliament first had or signified by ordinance to that purpose. I think wee shall not trouble your Lordship much with that; for if that be as our copie is; it is true, it is not well laid; but if it be never so well laid, I conceive, as I am informed, there is nothing of that endeavoured to be proved. *Att. Gen.* That we leave to the Court, Mr. Hales.

Mr. Hales.

Mr. Hales. Then the next is, that to accomplish the said traitorous and wicked designe, *Christopher Love* did at severall dayes in the yeers aforesaid, traiterously and wickedly advise the Scots. Our exception to that is this, There is a treasonable assistance charged in some of the yeers that were before the making of the Act that did prohibit it. **At. Gen.** And afterwards too, **M. Hales.**

Mr. Hales. It layes it in some of the yeers before the making of the Act, and that is sufficient to invalidate this Charge.

The Clerk. And further to carry on and accomplish the said traitorous and wicked practice and designe, he the said *Christopher Love*, severall dayes and times in the respective yeers aforesaid, at London and divers other places within this Commonwealth of England, and elsewhere as aforesaid, together with the said *William Drake*, *Henry Jermin*, and others their complices aforesaid, did traiterously and maliciously invade, aid, and assist the Scots, being foreigners and strangers, to invade this Commonwealth of England, and hath adhered to the forces raised by the enemies of the Parliament and Commonwealth aforesaid, and Keepers of the Liberties of England as aforesaid.

At. Gen. You will finde this in a Statute before this. **Mr. Hales.** Not before the 17 of July 1649. and then your Charge is repugnant, you charge us for an offence which is precedent to the statute.

At. Gen. For that, you go and take them and pick them; but we lay them all together: there were Treasons he committed in 1648. and that which I pitch upon still is this (that **Mr. Hales** thought was waved) that this man did not promote the interest of *Charles Stewart* late King, or that he had not endeavoured a subversion of this Government; I lay that against this Act made in 1648. then by consequence to maintain that, he did it to promote his interest, and to subvert the Government; and there was a law in 1648 that did inhibit that; there is a law inhibits the calling in of strangers; and it follows by that, that he who calls in strangers may promote the interest of *Charles Stewart* too; and that foundation is to this purpose, that he did promote him to have been King of England: and you know what he expres'd to you, what tenderness of conscience he had to take care that he might not go elsewhere.

Mr. Hales. If it be so, then we must desire, That part of the charge may be read.

At. Gen. I have not charged them, nor untill I receive command, shall I vary from what I have received formerly, that I shall charge this to be against this, and that against that; but I have laid down the Acts of Parliament that have made things Treason, and the offences severally, and upon the whole conclude that these are treasons against severall Acts of Parliament severally; if one or all together serve turn, I hold it well enough. If you put me to every one of them particularly, I must have more time, and better Clerks to draw the Inditements.

Mr. Hales. Still the same objection meeteth (with submission to the Court and **Mr. Attorney**, the same objection meets) with them; we say then, he will make this a kinde of an additionall Charge to the first, or to the second, or to both; but we know not to which. **Att. Gen.** Yes.

Mr. Hales. But we say that that is not sufficient, upon these reasons, because it is a charge of treason in it self, and therefore shall not be made an additionall and supplementall charge to make out another. And then we say, that this is uncertainly charged, whether you will make it supplementall to the first charge of Treason, that is, the endeavouring of the subversion of the Commonwealth; or to the second charge of Treason, which is a distinct charge of treason, of the promotion of the interest of *Charles Stewart*.

Att. Gen. I cannot divide them.

L. Pref. Are not these as perfect as before? doth not the subversion of this Commonwealth promote the interest of *Charles Stewart*? and doth not the promotion of *Charles Stewart* subvert the interest of this Commonwealth? If he hath laid it, that he did both of these by assuming it, by a double or multiplied act, and all these multiplied acts are but one subversion; if I subvert it by one, or by 20 acts, both of them are the same in nature; for the subversion of the one, is the bringing in of the other; and the bringing in of the one is the subversion of the other; and so they are relatives fully one to the other, and there cannot be more expres'd in the Charge then this: And notwithstanding all these acts, though that act hath made the Treason, cannot it be by another act? you may prosecute by vertue of this subsequent act, any thing that was understood to be generall treason by the law of the Land.

Mr. Hales. My Lord, this is that we insist upon. It is true, we do conceive, though the promotion of the interest of *Charles Stewart* is not consistent with the preservation of the interest of the Commonwealth; yet every destruction of the interest of the Commonwealth is not therefore a promotion of the interest of *Charles Stewart*; for then there could be no Treason against the Commonwealth, but it must be a promotion of the others interest. Now there may be a Treason against the Commonwealth without the promotion

promotion of the others interest. I urge it to this purpose, to make it appear, that they are severall Charges bottomed upon severall Acts, and therefore the reference here made to promote the designe aforesaid, is uncertain to which it shall relate; it may fall out the partie may be guilty upon the first Article; it may fall out, he is not guilty upon the second Article, and then it is uncertain to which article it relates, that hee is guilty of, or not guilty of: and here may be the consequence of it, then you will make a Treason, which to this third clause is a Substantive, and contained in it self, to be an overt act to another charge of Treason, and that you cannot do: you cannot make a Treason which is so charged, to be an overt act, or exposition, or a declaration of that which is contained in the former, like that case I instanced in before, of the 25 of Edward the 3^d. That no man shall go about to destroy the person of the King, nor to raise war against his people: so that we use it not in any other reference, but onely to explain and bring the reason of that ancient Law to this Law: In that case a man cannot charge the overt act of going about to destroy his person, which is a distinct Treason of it self, to be an overt act to the Charge of Levying war, which is another distinct Treason; And if he alledg, such a one did go about to destroy the Prince, or the Consort of the King, or the King, and to make the levying of war to be an overt act to it, this he cannot do, because though it is true, it might be an overt act to it, yet notwithstanding, it being made a distinct treason, it cannot be an overt act to another treason: and so here, this very assisting and inviting of forces is made a distinct treason; and so if you take it substantively, it is insufficiently laid; and if relatively, you may not do so, because it is a treason of it self, and shall not be brought in relation to another treason laid before it.

Ans. Gen. For that, I hope Mr. Hales will leave me to that liberty I have, that is, that if one act be an offence against severall Acts, I may aggravate it so, as to make him know it is so; and I take it for an aggravation of his offence, when he hath offended against so many severall Lawes, which he hath done; and that I may have liberty to say so, though perhaps that subversion of this Government is not in every respect a promoting of the interest of *Charles Stewart*; but the subversion of this Government, as it is here laid in this indictment, is a promotion of the interest of *Charles Stewart*: and so it is here. And I have done now with that.

L. Pres. Then (Mr. Hales) I will add a word, because that you did put the case of a man destroying the person of a King, and Levying of war; if it be laid, those very acts, if they be laid as a continued, or a *medullum*, or an enterprise, that he had taken up a war to destroy the person of the King; those words in one sense, if it had been laid solitarily by it self, and destroying the King in another; but if he shewed that by levying of war he endeavoured it, then the denomination is from the end in that place; and though they be two treasons substantively, yet when they are laid as one continued act, they are but one: and so it is in this case; all these, though there are severall statutes, and severall treasons, these multiplied acts make up but one complete in the conclusion: if there want one of these, if there be sufficient in the other, it is treason enough, and too much too (I would it were not so) if they be laid in subordination, as all these are, every one of them further to promote this, and to promote that; so they are laid in promotion of it to every one; and then they are contiguous, and depend one upon another, and are substantive, and so substantiall, as that they may be relatives one to another, and so are these.

Ans. Gen. The next, Mr. Hales.

M. Hales. The next is the 4 Charge; and that is, concerning holding correspondence by letters & messages, with *Charles Stewart* and the late Queen his mother; we say, that this part of the Charge is ill laid also; it is laid in nature of a felony by the Act, and laid to be done traitorously in the Charge; and that is a substantiall (not a meer formality, but a substantiall) mistake; for if so be a woman be indicted of petty treason, because it is *proditoria*, yet in truth it amounts but to felony; now in case wherethe is an accessary to a felony, the indictment is naught: if a man be accused that he did traitorously such an action, which in it self amounts but to a felony, that charge is naught; and so it is here, it is mislaid: for by the act of the 26 of March 1650, the matters therein charged are not made treason, at most but capital; but we think it only prohibited, and then we say it is an uncertain charge: and so it is, under favour; for though the act saith, No man shall hold correspondence by letters, messages, or otherwise; yet when we come to inform upon it, or to indite upon it, it is not enough to say, He held correspondence by letters, messages, or otherwise; but if you will ground your deed upon that Act, you must shew what that *otherwise* is, and that is the exception to that part of the Charge.

The Clerk. And further to carry on the said traitorous and wicked practice and designe, be the said Christopher Love divers dayes and times, between the 29 of March, 1650. and the first of June 1651, at London

London and other places, as aforesaid, did Traiterously and Maliciously give, hold, use, and maintain correspondence and intelligence by letters, messages, instructions and otherwise.

Mr. Hales. Or otherwise was our notes, when that is out of doors, but our Exception is, that it is alledged to be done Traiterously.

L. Pres. And the Statute saith it shall be Treason.

Mr. Hales. No it saith not so, the Act layes it only in nature of a Felony, and in the Charge it is laid to be done Traiterously, and so the Charge is mislaid.

Att. Gen. I confesse it is expresse so in the 26. of March 1650. and it is not said what the offence is, but I conceive in the first place, that by the law of England, he that holds correspondence with a Traitor, will go very near it, my Lord; and then I humbly conceive, that still he going upon the first Act, it is laid to be with Charles Stewart, and the Queen and Councell with him (I think) it is a promoting of his interest; he to hold a correspondence with him, whom the Parliament hath said, you shall in no case promote his interest.

Mr. Hales. I must be bold still a little, to crave Mr. Attorneys favour, to reply upon him in this kind of way, for I have not had time.

Att. Gen. You have had more time then I, for I heard not of it till now.

Mr. Hales. We say, the Charge is not good because it is made Felony only by the Act, and laid in the Charge to be done traiterously; and then we say, that Charge is uncertain to what designe it relates; if it relates to the business concerning the promoting of Charles Stewart's interest, if it be so, we conceive it is not proved; for the proof I mention not, but that is not insisted upon, that Master Love did promote the interest of Charles Stewart, contrary to the Act of Parliament, that (I think) is not insisted upon.

Att. Gen. O yes.

Mr. Hales. I conceive, no.

Att. Gen. I conceive very much otherwise, Mr. Hales.

Mr. Hales. I desire that Charge once more may be read concerning the promoting the interest of Charles Stewart.

The Clerk. And the better to carry on and accomplish the said Traiterous and Wicked Practices and Design, be the said Christopher Love, with the said William Drake, &c. (since the death of Charles Stewart, late King of England, who for his notorious Treasons, and other Tyrannies and Murders by him committed, in the late unnatural and cruel wars, was by Authority derived from the Parliament, justly condemned to death, and executed) severall dayes and times, in the respective years aforesaid, at London aforesaid, and sundry other places within this Commonwealth, and since this Nation was seised in the way of a Commonwealth or a Free State, as aforesaid, did Traiterously declare, publish, and promote Charles Stewart, eldest son to the late King, to be King of England.

Mr. Hales. We are informed, that there is nothing of any particular act of his, concerning that, but we have nothing to do with the Fact, but we conceive that no subsequent thing by way of construction or interpretation, shall make a publishing and promoting in such a manner as this is; it must be such a thing as expressly publisheth and promotes him to be the chief Magistrate of England; according to the words of the Act, and not by way of dilation; we say, this is not a thing to be applied to serve the turne, upon this reason; we say, that the holding of correspondence and intelligence with Charles Stewart, eldest son to the late King, it cannot be coupled on to the promotion of the interest of Charles Stewart to be King of England, seeing that is but by way of interpretation to bring it within the first part of the Act.

Att. Gen. For that I shall crave your direction.

L. Pres. It is not interpretative, but positive.

Att. Gen. But I shall shall crave your pleasure, whether I shall in my impeachments afterwards put in all my evidences; what is charged, and evidence proves, that you will judge upon I hope.

Mr. Hales. then the next part of the Charge, and that is the fifth, that he did hold correspondence with divers persons of the Scots nation; our Exception to that is plain, we conceive, that part of it is not well laid, neither, it is not laid in pursuance of the Act of Parliament, as our notes are, this is that we say, that it is not expressly alledged, that they were persons residing in Scotland, as our notes are.

Att. Gen. Like enough so, Sir.

The Clerk. And further to carry on and accomplish the said Traiterous and Wicked Design, be the said Christopher Love, severall dayes and times in the respective years aforesaid, at London aforesaid,

and divers other places within this Commonwealth of England and elsewhere, as aforesaid, did Traiterously and Maliciously hold and maintain, correspondence and intelligence with divers persons of the Scots Nation, viz. with the Earle of Argile, Lowden, Louthian, Bayly, Belcarris, and divers other persons of the Scots, and other Nations, whom he well knew to adhere to the Scots Nation in this war against the Parliament and Commonwealth of England.

Mr. Hales. This we conceive, is not a good charge, for the words of the Act of the 2^d of August 1650, upon which this is grounded, are, that no man shall hold correspondence with the Scots Nation residing in Scotland.

Att. Gen. You were best read further, Mr. Hales.

Then Mr. Hales read parts of that Act, beginning at these words, [Be it Enacted, Ordained, and declared by this present Parliament] and ending with these words, [Without the allowance, license, &c.

Mr. Hales. It is true, there is no residing; for that yet comes not home, we conceive, to part of the Charge; there are two parts of the Charge, the one, That he did maintain correspondence with divers of the Scottish Nation, and with divers other persons of divers other Nations, whom he well knew to adhere to the Scots Nation in this war against the Parliament. As to the first, that is out of doors; then here is no full charge of holding any correspondence with any of the Scots Nation; for that part of the Charge rests upon this, that it must be with holding of correspondence with any such persons as are residing in Scotland, and with any other person residing there. Then as to the other part—

L. Pref. It is a continued speech, not with the Scots nor any other.

Mr. Hales. Then here is another thing in it, that it is not averred that such correspondence and intelligence was held without the license of Parliament.

Att. Gen. You are mistaken in that, your notes are not true.

The Clerk. And he said Christopher Love, within the times, and at the places before mentioned, did Traiterously assist, incourage, without the special license of the Council of State, or Parliament, or Captain General of the Parliaments Forces.

Mr. Hales. We say then, these are two distinct Charges, and grounded upon two distinct parts of an Act, but there is this more in it, which we conceive is not to be answered, with submission, under favour, it is said he did it within the times aforesaid, the times that are aforesaid, are between the 29 of March 1650, and June 1651; now this Act whereby this is made traitorous or Treasonable, takes not place till the 5. of Aug. 1650, so that it might be done within the times aforesaid, that is, between the 29 of March 1650, and June 1651, and yet not contrary to the Act of the 2^d of August, which was 1650.

S. Tho. Wither. We lay it within all the times aforesaid, and, I suppose, the matter of the evidence hath told you the times, which now we are not to dispute.

Mr. Hales. Whatsoever is done between the 29 of March 1650, and the 2^d of August 1650, is not done contrary to the Act of the 2^d of August 1650, upon which Act this Charge is grounded; there is a time between them, and between the time of exhibiting of these Articles: whatsoever is said to be done between the 29 of March 1650, and the exhibiting the Articles is not said to be done after the 2^d of Aug. 1650; for if it be done between the 29 of March and the 2^d of Aug. it is done within the time aforesaid, that is, between the 29 of March 1650 and June 1651, and yet not done contrary to the Act of the 2^d of August, because done before the Act came forth.

Att. Gen. Though Mr. Hales will not consent to it, we will strike out the 29. of March, and then he will not deny but that is good enough, with that stricken out, before the first of June 1651. whether it be not good enough, and no time laid before it?

Mr. Hales. No indeed, it is not good enough.

Att. Gen. Why not? it is after the offence committed.

Mr. Hales. Because it may as well be before the Act as after the Act.

Att. Gen. If we lay it after the offence committed, I suppose it is well enough, and the wisest will think so; lay it to be the first of June 1651; suppose it were in September before, it is good enough.

Mr. Hales. If you lay it upon the first of June, it is a year, before it is not good enough.

Att. Gen. That that Mr. Hales insists upon, he may say it is before the first of June 1651 so long since, but in a just and reasonable intendment; when we insist upon that law that makes it Treason to hold it
after

after such a time, and we say that before the first of *June* 1651. he did commit Treason in holding correspondence, and sending provisions of war before that Law, though it were before the second of *August*, 1650. that were not against that Law.

M. Hales. Still we say, that contrary to the form of the Statute, or contrary to the forme of the Law, which is but the conclusion, shall not supply that which is materiall to be alledged; now when here is an Act laid to be done, certainly it is materiall, to alledge that it is done in such a time as may appear to be after the time of the prohibition of it to be done; the prohibition runs to the second of *August*, 1650. that no man after the fifth of that *August* shall doe such an act; then it must be laid to be an act done after the fifth of that *August*; but it is not laid so here, but laid so as may be intended to be done before the fifth of *August*; for here is a time laid between the 29. of *March*, 1650. and the time of the exhibiting the Articles which is in *June*, 1651. and that he did this within the time aforesaid; now he that saith he did it the 30. of *March*, saith he did it within the time aforesaid, and yet saith not that is within the Act.

Sir Tho. Witherington. We have given an answer to that, we have laid it within, and without the time, that it is within the time, the witness doth prove it, and *M. Hales* speaks not to what we have proved, and cannot speak to it.

Mr. Hales The proof shall never supply the insufficiency of the Charge; for we may as intirely offer you an Exception to this matter, after you have heard the proof, as before you have heard it; for it stands now as upon the Charge singly, so that it shall not be supplied out of matter that appears in the proof, but it must be considered whether the Charge can supply it self or not; for that that is alledged against the Charge before the proof made, is alledged as well afterwards; if it were not good before the proof, the proof shall not be supplementall to it; for upon that reason, if an Indictment did want time, or certainty, then after the party were heard upon his Defence, it might be said when this Exception was taken to the Indictment, all this might appear upon the Evidence, but that will not supply the defect of the Indictment.

At. Gen. I am sure wee have laid it late enough, the first of *June*, 1651. before that time, and *Mr. Hales* his Exception is still upon that way of proceedings upon Indictments; he must have that positive and strict certainty in it in each particular, I must give it that answer still, that if you do in these cases put me to it, to expresse every particular circumstance of every particular fact, and every particular time, and that it must conduce in the conclusion of it, I must make you Impeachments that will not be fit for you to read nor hear; but under favour, if that it contains in it in this way of Charge that convenient certainty, that conveniency that may put the prisoner to the knowledge of it, and to prove it; for this relates not singly, for if I should go that way *M. Hales* hath laboured to draw me, that is to take every one of these severally, and that I must make a distinct Charge upon one, and upon the other, and a distinct Evidence upon one, and upon the other; I conceive these run quite through all the laws every one of them; had I confined this now between the 5. of *August* 1650. and *June* 1651. then what had become of all the laws before that time? therefore to make them relative to all, I have expresse'd such a time as may relate to all; for had I confined it singly upon this or that act, whereas I humbly conceive, that these acts and these offences of *M. Love* are relative to more than one Act of Parliament, and go to severall acts; and therefore I cannot confine my self to one act, and say, it was done at such a time, and there limit it and let it die; but my indeavour hath been, and upon this particular we debated it, when we did draw it, we put it so, that the severall acts may have the severall effects, and *M. Loves* Treasons look upon every one of them, and they upon every one of his Treasons, and as his offences run through, and against all the acts, so must our laying it upon him run, and the evidence also; and though we took care to lay it back far enough, that was to the first of *June*, 1651. and so laid it high enough to the other that it might reach the rest, and in this way we are not tied so to expresse it in every particular, as other Indictments run.

M. Hall At. of the Dutchy. He would charge it upon the times between the 29. of *March*, and the 1. of *June*, that be not the times that we have exprest in this, for it is that within the times aforesaid we have positively laid, that it was in the year 1651. for we have laid before that in the year 1648, 1649, 1650, 1651. then in the times aforesaid, we have positively laid, that this fact was done in the year 1651. which of necessity must be since that Act concerning the Scots was made, and that I conceive is an expresse positive time mentioned in the Charge, and gives a full answer to that objection; for it is not within such a time, but in the year 1651.

Mr. Hales

M. Hales. That Charge is within the times aforesaid, which is last mentioned, between *March 1650.* and *1651.*

Mr. Hall. That we shall submit to the Court, whether in the same times aforesaid, shall not relate to all the times before-mentioned, as well as the particular times he hath picked out; for we mention that in the year 1651. these things were done.

At. Gen. For that I have given you that that is the generall answer, if I be put to it, whereas *Mr. Love* had transgressed against those severall Acts of Parliament, we have put it so, that we conceive his offences run through them all, and so we have laid them, and (I hope) we are not upon those Niceties, that we must express the direct daies and times, as Indictments run, but here is enough to make him know his offences.

L. Pres. I conceive it is much better as it is too, and more obvious to every understanding, and their interpretation, then as you would have it, a great deal; for the necessities of the day it is not materiall, that you will agree, nor the week if they lay a time so many moneths before, or after, if the proof come and fall within the compass of the Charge, as the proof is laid, so is the fact, the proof determines whether it were within the times without the Law, or within the times aforesaid; for it is not within that time, and every of them, but within the times generally laid, all those acts were done, and those must be laid in particular, which was at one time, and one at another, which were two years a brewing, and are by the proofs laid in generall, that is best to say, one fact was done at one time, and another at another time, and at such a time, and not at such a time, it can be no mans judgement to be so laid in an Indictment or Charge, but they must be laid thus in generall, and the Evidence must make it particular, that it was within the times that are laid, as when there are no times, as from *March* to *June* and *August*, and after if they be both laid, if the fact be within such a time that is within the law, all the other is out of doors.

M. Hales. My Lord, thus if it please your Lordship, I think with submission to your Lordships judgement, that in such a case it is not in the proof to make good a Charge; if the Charge do not containe a sufficient certainty, it is not in the prooffe to make it good. My Lord, I insist now upon the necessity of a day to be precisely laid; I know (though it is true, it hath been otherwise held in some cases) yet, in a case of this nature, the day is now materiall, for now we are upon an Act of Parliament: As now, if so be the Statute of the 29th. of *Elizabeth* enacts that every man that shall knowingly entertain a Jesuite, that that man shall be a Traytor, shall stand guilty of Treasons; if so be a man would say in an Indictment that such a man between the 28th. of *November*, in the 28th. year of the Queen, and the 28. of *December* in the 29. year of the Queen, did entertain such a Jesuite, this Indictment would be naught, not upon the uncertainty of the day, but because it takes in a time which is not prohibited by the Statute, the Indictment may be true that he did receive a Jesuit within that time, and yet that he did not receive him contrary to the form of the Statute, and to say in the conclusion contrary to the form of the Statute will not help it, for that is our objection, that it is not done contrary to the form of the Statute, because it takes in such a time, as that it might be done before the Statute came forth; we say, that when there is a time laid between the 29. of *March* 1650. and *June*, 1651. and that within that time he did do thus, and thus, that there is the fault, it doth over-reach the time of the prohibition of the Statute, for any thing appears to the Court, the Court may finde the Indictment or Information true, that he did it within this time, that is, between the 29. of *March* 1650. and *June*, 1651. and yet for all that, the party not in fault to be impeached, because he might not do it contrary to the Act, for he might do it between the 29. of *March*, 1650. and *June*, 1651. and yet do it before the Act came forth, which was in *August*, 1650.

M. Hall. My Lord, I conceive *M. Hales* hath not answered that I alledged; but now if there were no other times mentioned in all the Charge, but only between the 29 of *March* and *June*, 1651. then it were somewhat; but when the times are express'd before, though that it was in the year 1651. and then we say in the times before-mentioned, I conceive that in the times aforesaid shall relate expressly to that time in the year, 1651. and then it must be within the Act.

M. Hales. That cannot be, that will make the Charge worse.

L. Pres. That I conceive you are upon is this, the very Letter of the Charge; for you say at this time that is laid, he could not be a Traytor, and you joyn it with a time in which he might be a Traytor; This (you say) they lay in the Indictment, that he did in such a time of *March*, and afterwards, and at that time there was no law to prohibit it, and so there could not be a crime against him, and this
you

you say, no proof will help it, I take it, *Mr. Hales*, this is the substance, but if this be thus laid, and the proof doth come in, this is very essentiall in my judgement, when upon the matter, if this be as you see it appears upon the face of the thing, that the proof must go to that time within the Law, and therefore that will not vitiate at all such an Indictment, if it were so as you say; but I take it, that this being complicated with more Lawes, as I said before, though he were not guilty upon this, yet in the conclusion he is found guilty of that which is as to other offences.

Att. Gen. I shall say but this, wee all know that a time is express'd but for formality, and that time that is express'd is not materiall, so it be laid far back enough; but if I lay it in June, and prove it in June twelve months, it is time enough for this, as your Lordship was saying: that which I do say, is, that I cannot confine not this very act that is supposed to be, and yet not laid to be against that Act of the second of August 1650. from this clause in expresse terms, not singly: But that which I humbly insist upon is this, that never a one of these offences singly transgresse one single Law, but is an offence against severall Lawes. I conceive, I had done my self and the Commonwealth wrong, had I limited it to any one; for his complying with the Scots, and joyning with them, and contributing with them; and receiving intelligence, it is more then against that single Act; it is promotion of his interest, and subversion of the Government, and against every one of the laws: And therefore, I conceive, I had not done right to the place I am entrusted with, if I should have laid it singly; but he is indicted, that as a false traitor he hath done these things; that is the preamble: and then wee instant the particulars, and give a time, which time he will acknowledge is not positively necessary to be true, that that time must be the day the fact was committed, but if it be before, it is enough: But he infers, because this seems to be an offence within the Statute of the second of August 1650. and is laid between the 29 of March 1650, and the first of June 1651. and so whether this can relate to that Act; and by evidence you know it is afterwards; but this being an offence against severall laws, I cannot charge it to be against one Law: but the art is now, as *Mr. Love* began, to take it asunder, and singly, and then it is nothing; and *Mr. Hales* takes it singly. It is not against this, nor against this; but it is against every one of them, and not against this singly, but against the rest of them.

S. Tho. Wither. My Lord, it cannot be contrary to the forme of the Statute, unless it be done after the time, so that the conclusion shews it was laid within the time, but for that case, as *Mr. Hales* instanted in, he puts a case of one Act of Parliament, we are now upon offences against severall Acts of Parliament; in that case of retaining a Jesuite, he is a Traitor by the Act of the 29 of Elizabeth, so that if he laies it between the 28 of the Queen, and the 29. if the Jury find that hee did retain him knowingly on the 10. of May 29. then it will not be denied, but that it is an offence against the Statute.

Mr. Hales. But still we say the Indictment is naught in that case, because it takes in a time which was before the Act came forth, so that the party might do it within the time exprest in the indictment, and yet not do it contrary to the Act, and this is our case.

Att. Gen. My Lord, you have heard us for that.

Mr. Hales. The last thing is concerning contribution to *Silas Tims*, and *Starks* a Scotchman; and to that we have the same Exception, that that is not made Treason by any Act of Parliament, and therefore it is mislaid to be done Traiterously, for the Statute of the 26 of March 1650, only prohibits it, and so makes it penall, but not Treason. But then we say againe, it is laid very uncertainly too; that is, at the times before mentioned; if *Mr. Attorney* of the Dutchie his constructions should stand, that is, that the times before mentioned refer to the time past, then he may refer to a time before the Act. But we conceive the thing it selfe is not Treason by the Act, but only prohibited; and we conceive, under favour still, that by way of reduction to any of the former Charges, this shall not be made as an instance or an overt act by way of reduction to any of the former Charges, because it is charged particularly to be traiderously done, because there are severall charges of Treason before, and that which *Mr. Attorney* was pleased to observe upon another occasion, that in this case the charge is against severall Acts of Parliament, it is true, but though it be against severall Acts of Parliament, yet it must bind & pinch upon one; for we say, one Treason is not to be made an instance to another, and so to be made accessary, and depending, and accidentall to another, and then we say in this case, that this being not a Treason in it selfe, and being as uncertain to which of the former Treasons it is applied, it cannot be well laid, nor well applied, that is, to the last, that hee did voluntarily relieve *Silas Tims*, it is not made Treason.

Att. Gen.

Attur. Gen. It is against the Act of the 2. of August, 1650. in express words: read the Impeachment.

The Clerk. And further to carry on and accomplish the said traitorous and wicked practise and designe, be the said Christopher Love within the times, and at the places last aforesaid, did traitorously and voluntarily relieve the said Silas Ticus, Edward Massie, Col. Bamfield, one Mason late of London Gentleman, and one Sterks late of London Gentleman, who then were, and yet are under the power of the Scotch Nation in Arms against the Parliament and Common-wealth of England, with monies and ammunition. Which Treasons and traitorous and wicked practises and designs of him the said Christopher Love, were and are to the apparant hazard of the publike peace of the Common wealth, and Free-State, Parliament and People of England, and to the manifold breach, contempt, and violation of the Lawes of this Land, and contrary to the forme of divers Statutes and Acts of Parliament in such case made and provided.

M. Hales. Then we say, it is uncertainly alledged, and uncertainly laid; but we take it, it is not within the words of the Act, we desire that Act may be read.

The Clerk. That shall from and after the 5. of August, 1650. use, hold, and maintaine any correspondence, &c.

M. Hales. Then this is not within this Act, because that this is concerning sending to persons that are in Scotland, I observe not that it is charged that they were in Scotland.

At. Gen. Or shall abbet, assist, countenance or encourage the Scotch Nation, or any other person or persons adhering to them in their war against the Common-wealth: What think you of relieving, is not that abetting and encouraging?

M. Hales. It should be laid so then, I desire that part of the Charge may be read again.

The Clerk. And further to carry on, &c.

M. Hales. My Lord, we think this is not fully charged according to the Act.

At. Gen. I will read you another of the 26. of March 1650. *M. Hales.* That makes it not Treason.

At. Gen. It comes very neer it, but I insist upon it, it is under the other, relieving them with money, buying of Arms.

Mr. Hales. Still the same Exception lies upon it, within the times aforesaid, which certainly cannot be acknowledged.

At. Gen. We acknowledge the same Exception; and the same answer lies to it, that of the 26. of March 1650. it is, he shall suffer death, and upon this it is Treason upon both together, we cannot divide them, but must express them so.

Mr. Hales. Under favour, the one makes it Felony, and the other a Treason.

At. Gen. But it is a deadly one.

L. Pref. If a Statute Law makes a thing Felony that was not Felony, or recites a thing that is Felony, and saith it shall be punished with death, being a petty Larceny, therein you say well; but if the Statute recites that that is Treason in it selfe actually, and saith, that they that doe these things shall suffer death, according to the nature of that offence that is formerly recited, and limits it so in the recitall, if the recitall be Treason in the beginning, and then say, that that Traitor shall suffer death without mercy.

M. Hales. We have shewed our reasons in the Case, my lord, it is as much as we can say upon this sudden concerning this Charge; there are some other things that are mentioned here by Mr. Love, as how far forth there be sufficient Witnesses, admitting the Charge were good; how far forth the Witnesses are sufficient in themselves; and then whether here be two concurring Witnesses to any one act, and whether any thing be more proved then Misprision of treason, and concealment of treason; these are things Mr. Love takes upon him in fact to say: And now for those, when the case is made, we shall be ready to speak to these things, for truly it is sudden and new to me, for these matters came not to my knowledg till this morning after eight a clock; that is, concerning the last paper he offers to your Lordship, and that is, Exception to Witnesses, proof, and matter of the proof, whether the bare concealment (for thus it is stated unto us, the concealment) of any thing that is treason whether that be treason or no in the party that conceals it; these are things that if we were prepared for, we should speak to. First, we conceive by the Statute of *primo et quinto Elizabetha*, there is a necessity in this proceeding before your Lordship to have two lawfull and sufficient Witnesses. Next of all, we thinke, that if these witnesses be such as he hath stated them to be; which whether they be or

no,

no, we know not, for we are utterly unacquainted with the evidence, yet we should think they are no sufficient witnesses; and then admitting they were sufficient witnesses, yet if so be one witness speaks to one fact, another to another, we conceive these are not sufficient witnesses within the Statute, not sufficient to convict him. And then, if that which they have witnessed be nothing that amounts to Treason, haply committed by others, that makes him not guilty within the Acts. If we had time to understand, and digest, and consider, what were the matters that are alledged, we should be able to say somewhat to it. My Lord, that which we have said, we have said of a sudden, and so it appears because we had not that clear understanding of the Charge as otherwise we might have had, and so have saved much of your time.

Att. Gen. For that that hath been said suddenly by Mr. Hales, I shall suddenly give it this answer, he hath had more time then I, he hath said from Mr. Love and not from himselfe; he saith when the case is made; I think it will appear then that these Exceptions have been made to the Court, that the witnesses have not been competent neither in quality nor number, they have been spoken to; for the witnesses, the Exception to the quality because they were of the same gang, they had a hand in the same Treason, that was the Exception, I think that will not be allowed to be a legal Exception, they are persons that (as Mr. Love pretended) had a hand with him in this Fact, and therefore they should not be competent witnesses; that I shall appeal to Mr. Hales's judgment, before conviction and upon a proceeding, whether they may not discover (and after conviction) if they be Approvers. For the next, for two witnesses; when the case is made, you will find one, two, three, four, five, six, and to most of them two, three and four, for so I may make bold to say, for so I read them to you the last day. And then for the last Exception, that was for the concealment of Treason, it is far from it, for I know not what a concealment Mr. Love may intend, I am sure Mr. Hales will not think that a concealment to run on one, two, or three years, and run on, and send letters; that when he acts along with them, and hath the meetings at his house continually; moves them to receive money, and contribute; I think hee was the highest Actor amongst them, for the meetings were continually at his house, the advices were there resolved upon debates, there he gave his advice one way, and they another way; I think he will not think this is but misprision of Treason; and we never did charge it, nor intend it so, but went a little higher.

Mr. Hales. If that be declared to be insisted upon, that the non-revealing of Treason, though it be a month or two, or a year or two, can be no Treason, then we have done with that question; for then it will rest singly upon the Fact before your Lordship, whether there be anything more proved, then such a concealment, then it is true, we are discharged of that question. But then concerning the proof, if Master Attorney will please to admit, that the proofs are such as Master Love hath stated in this paper.—

Att. Gen. That I shall not do before hand, but to debate upon the proof, I shall crave your Lordships directions; I have gone over them already, and it hath been trouble enough to me, if it be your Lordships pleasure I must go over the proof again, I shall submit to you, but not to him.

L. Pres. Mr. Hales, there is no witnesses that have been heard, but they have been of the said confederacy, that was one Exception Mr. Love made; it was debated at the producing, and over-ruled, and I believe your judgement will go well with us, that it was no Exception. Another was, that they have been promised rewards, that was likewise moved, and over-ruled, the Court was of opinion that they may do it; that if there be a Treason, and there be many correspondents in it, and one out of remorse, as some of these did say, that when they had been there they did not like their wales, but went from them, and came to them no more; if this man, or any other man afterwards shall come and reveal this, it is in the power of the State either to reward him with monies, and to promise him life too, if hee shall faithfully do it; and this wee say, is a stronger case then the case of an Approver, which afterwards when they became Approvers, they must confesse the Fact, and say they are guilty of the Fact plainly, and openly, and yet then they are good witnesses to discover this, as it was plotted in hell, for this was no other, though they had a vizard upon them, which was no otherwise; I say, if any one will discover such a way haply it was offered to Master Love himselfe, if he would have done it: I believe there was some overtures made to him; but this is law too, by the law of this land, which is the law of God; for we have no law practised in this land, but is the law of God, and so did the Lawyers maintain it before the King in Henry the eighths time, the Popes, Legates, and chief Arch-Bishops, and Bishops of England, and did then

then prove it to them, that there was no law practised in England but the law of God, which our Ministers are loath to touch, and busie themselves to study, but study the Ceremoniall Lawes of the Jewes, which are *Mortua Mortifera*, which are not to be practised by any other Nation, till they be established by a law; and that which is the law of God in this land, that hath so much preserved it, these they are wilfully ignorant of, and say, it is civil; but I say, it is Christian law; and therefore never distinguish in a Christian Nation, that the lawes are Morall and Ecclesiasticall, with that fained distinction; but all the Lawes of this Nation are Christian, and stand with Evangelicall Truth, as well as with naturall reason, and they are founded upon it; and therefore, Master Hales, we are here now to go on by these lawes, which are the lawes of God, and wee must walk in them, as wee would walk to Heaven. And for that you speak of now, Mr. Attorney hath answered all the Exceptions every one, and I think for that matter of Fact, every one of them particularly. Mr. Love did take his Exceptions too, and they were over-ruled. Now to come, whether these are lawfull witnesses over again, when it is in matter of Fact, and over-ruled by the judgement of the Court, Master Hales will not think that is regular. And then, whether there be two to one point or not, that is another of your Exceptions; that I take it (Master Hales) is not matter of law, but for the Judges to consider of it; that which should be matter of law, is this, whether that single proofs, some to one, and some to another, joyned all together do issue out all this Treason; we want not precedents for that, for this is a heterogeneous Treason, every particular that these Statutes make a Treason, they are all of them complicated, he hath gone through them all in his act, and we must passe through them all in our judgments: though every one is particular Treason, had it been singularly laid by it self; yet now being laid as one concatenated Treason, they all of them make but one. For the next, for that of misprision, he is not charged here with misprision at all, but direct Treason; and if it be but misprision, we shall not for misprision judge him a Traitor upon this Charge; but then, what is in his judgement misprision? if this be nothing but a concealment, I think that the Court upon the Evidence will judge that it is more then a bare concealment, and whether Mr. Hales will think if I be a promoter, and concealer from one to another, and have so many continued meetings, whether two or three years together acting with them, & concealing them, for it is not a bare concealment, but a complicated Act; for if it were but a bare notion of it, we should have much ado to prove it, but (I think) the Court is satisfied, it is more then notion.

8. *The Witness*. I shall speak a word to that. Mr. Hales moved last, whether you will be pleased to hear any more of Counsell, in these three particulars; for, under favour, these three particulars concerning the witnesses, concerning their quality and number, and the Treason it selfe, these are matters of another kind of nature then all the rest he insisted upon, for the rest are meer matters of Law, upon the formality, and insufficiency of the Charge; these questions of the witnesses, are questions that are mixt, for they depend upon the matters in Fact, and cannot be otherwise stated; now Mr. Love, though he had no Councell appeared before, yet he had in his Defence all these Objections too; as of the incompetency of them, because they were *participes criminis*, and for that I think (under favour of your Lordships judgement) he had a full and a cleer answer to it, in case of an Approver, he is *Particeps criminis*, and accuseth men that are *Participes criminis*, yet that man even *ex merito justitia*, he shall be pardoned, saith our Law, and therefore that Objection that is made against the witnesses, that they are promised rewards and pardon, that is no Objection, for in that case the Approver shall have his pardon, *ex merito justitia*. Then for the other point, that is, whether by two witnesses in such a place or no, to prove a Treasonable act, that is, consisting merely upon the matter of fact, that I shall not take upon me to repeat, you have heard it; but this I said then, and this I humbly offer now, that if there be two witnesses, though they concur not in the same individuall act, yet if they concur in two acts, concurring to the same Treason, they prove the same Treason; if one prove the sending of letters, and another the sending of mony. I take it these are two witnesses, though they speak of two distinct acts, but in our proof we have gone on to two witnesses, three or four in most points. But then for the misprision of Treason, we did apprehend that, that which Mr. Love himself hath confessed, is Treason it self; but Mr. Love is pleased to make his own collection upon his owne confessions, for I confesse my presence and silence after these meetings and consultations; but this I take to be misprision of Treason: To this I replied, we took it to be Treason it selfe, for our books say, a man must not sleep, nor look back, but go presently to a Magistrate to reveal it; but when a man will not only sleep upon it, but keep it back, and act in it, this is more then misprision. But our charge is for a Treason it selfe, and truly Treason comprehends a misprision of Treason in it, but this point I think neither will come in question

now; for we say and charge, that it is a treason it self, not Misprision; and that collection *Mr. Love* makes, it is his own, but the judgment is yours, whether it be a Treason or not.

Mr. Hales. If it be your Lordships pleasure we shall speak, wee are ready to say what we can in the shortness of time; but if it be not your Lordships pleasure, we shall not say it.

At. Gen. If your Lordship please to declare what he should speak to.

Mr. Hales. These points, I shall onely mention them, I cannot argue them now. This is that I conceive; first of all, according as the case is stated, that is, Whether a person menaced, that hee shall lose his life if he discover not a particular person, and that he shall have his life if he do discover him; whether such a person be a competent witness or no?

At. Gen. Hear a word, I appeal then to you, whether any such person were produced before you?

Mr. Hales. First we only go upon what supposition *Mr. Love* makes.

Mr. Love. I humbly crave leave to that effect, to prove that particular. *At. Gen.* No, not now, Sir.

Mr. Hales. Wee conceive such a person is not a competent witness: then that is out of the case, it should seem, Sir. Truly, then the case that is put concerning an Approver, comes not to the question, under favour; for though it is true, an approver at Common law, might be an accuser; yet we are not now upon a proceeding at the Common law, when we talk of witnesses now; but we are upon a proceeding how far forth warranted for the witnesses, by the stat. of the first and fifth of *Ed. 6.* so that what is said concerning an Approver, comes not to this question; he that may be a competent witness at Common law, he is not a competent witness upon those statutes, for the words of the statute are expressly, *that hee shall be a lawfull and a sufficient witness*: and if so be that such a case were now, it is not to sample this case that is before you, with the case of an Approver, which is a bare accusation at Common law, and where the Jury likewise are to have other evidence; for either the defendant may wage his battell, or put himself upon his Country; and then it is at the pleasure of the Jury whether they will believe the Approver or no; but by the Act of the first and fifth of *Edward the Sixth*, it is expressly said, *There shall be two sufficient witnesses in case of Treason*; so that that hath made an alteration of what was in the Common law before; one witness was enough before, now two witnesses are requisite; and we conceive, the words *lawfull and sufficient* conclude such persons: if there be not any such, we are not to say we know, or know not: but if so be any person is drawn to make such a testimony for the preservation of his life, and shall make such an expression, wee think, that though it is true, he is a person that is attained, yet he is a person that is thus drawn, and we think he is not such a witness as is intended, especially in such a case as this is, where the tryall of the fact is before your Lordship, which is both Jury and Judge, to try the fact, and determine the law; and therefore perhaps here will be a more rigorous expectation who should be, and who should not be a sufficient Witness, then in case it were a bare tryall by Jury; there may be those exceptions alledged against a witness when the tryall is as now it is, that may not be when a trial is by a Jury; and therefore if so be that a party be thus drawn to testify for the preservation of his life, we think that this is not such a lawfull and sufficient Witness as is required in such a case. Next of all, it is said in the paper, that they have detected themselves, being parties of as deep a guilt as the person that is accused: I will not dispute that at this time; for it is not the case, whether a person that is a plotter and confederate with one that commits Treason, may be a Witness; but when a person is detected by lawfull Authority, before the Charge exhibited, whether such a person who is so detected, whose life is in the hands of the State, be one of these competent witnesses, we must leave it to your judgment in that, but we think he is not a competent witness; for there is not a bare accusation of a person, but (as the case is stated to us) by a person that should be examined and confesse himself guilty of those things whereof *Mr. Love* is impeached, and that before the Charge is exhibited. My Lord, the next matter is concerning the plurality of witnesses, the number of them, we think, under favour, with submission, that in this case, suppose the Charge had been singly upon one act of Treason, wee conceive, that in that case there is a necessity of two persons to prove that Charge: If the Charge be upon severall Acts of Treason, be the Charge so; yet if you will bring them within any one of the acts, you must have two Witnesses to bring them within that act: For suppose a man were indited of Treason heretofore for Levying of war, and another Treason for adhering to the Enemies, and another Treason for counterfeiting of the Coin, or those kinde of things; these are severall Treasons, though they are all put into one Information, and haply may be put, in case of necessity, into one Indictment, as here are severall acts put into one Charge. But now a proof of Treason within one of the Acts by one Witness, and a proof of a Treason

within another of the Acts by another witness, will not be esteemed and accounted a proof by two witnesses; for it must be a proof, not that he is within the Charge, but within that part of the Charge upon which he is to be arraigned; and here is not a proving each distinct part of the Charge by two witnesses, as the Statute requires. And then to come neerer, suppose the Charge were but upon one Act, as that he held correspondence with the Scots, and did invite them &c. I conceive that in this case, under favor, that that particular Act with which you will charge him to be a Traitor within any one law, must be proved by two Witnesses. The Star-chamber course I know what it was, that in case there were one generall charge, and then it did descend to severall particulars, one witness would serve for one, and another to another, and a third to a third, and these should make up two witnesses to convict the party; but we are not now in a proceeding of Star-chamber, that is laid by, it was not altogether so regular in all things: and then, we are not in a thing barely criminal, but in a case of life; and not in the case of life ordinarily, but in a case wherein a party is accused of Treason, wherein the Statute doth provide that there shall be two Witnesses (as I conceive) to swear to the same thing, by which you would bring him within it; otherwise they stand as single Witnesses every one apart. I have heard of a case (I have not had so much time as to look into it) concerning Mr. Rolph, indicted at Winchester; I will not so much as repeat over the Case upon my credit to the Court; but I take it, it was thus: Hee was indicted for somewhat about the person of the King; one Witness deposed about the presenting of a Pistol, or that he said he would; another about poisoning, or that he said he would: these two things did conclude in one & the same Act; and though they concluded in one and the same as evidences, complicated evidences to make good one Charge, and either of them had been sufficient, if proved by two; yet as I am informed (this is the inconvenience, upon the sudden we cannot offer it upon the confidence of our own knowledge, which a little time would make us wholly decline the mentioning of it, or affirm it upon our credit; but this I am informed) was not held a case proved by two witnesses; and if that be so, then I conceive these steps; the first will be agreed, that the proof of severall Charges by severall Witnesses, against severall Acts, will not make a proof by two Witnesses; it must be a proof by two Witnesses against one Act: therefore the proof of any thing against the Act of the 17 of July 1649, and another proof of a thing done against the Act of the thirtieth of January 1648; and another for a thing done against the Act of the 24. of Aug. 1650, here the offences are severall, the Treasons severall, and the Witnesses to either stand singly by themselves: How the case of the Fact is upon the proof, I cannot tell; that is, whether this falls out to be the case. But again, if the Charge were single, as now upon the Act of the 30 of January 1648, for proclaiming of the King, or promoting the Prince of Wales his interest to be King of England; we think, with submission, (which we shall leave to your judgment) that in that case there is a necessity of two Witnesses to speak to one thing; and not one to supply one part, and another to supply another: That shall be as much as I shall say concerning that; and I could wish that wee had had so much time as to look into it, to inquire what the truth of that case was which was tryed at Winchester, as I take it. Now for the other matter, that is, Whether Misprision of Treason, concealment of Treason be Treason? if that be not insisted upon.

Ans. Gen. No, no.

Mr. Hales. Under favour, the law is, That concealment of Treason is not Treason; but if that be not insisted upon, then the question of the fact is, whether there be any more then a proof of a concealment, or of a Misprision of treason; which if so be it be not, I can say no more.

Ans. Gen. Truly (my Lord) I did intend to speak to that of *Mr. Loves* case, and as of his making, but not now of his making, but as he hath made it formerly; surely, it is a great deal of patience and favour you have afforded him, that for matter of fact and law you have heard it all over again: As for that first, of the Competency of the Testimony, I shall remember his own division; First, of the Charge: Secondly, of the Witnesses and the Testimony: The third, concerning Himself: And the fourth, his humble Proposals to the Court. One part of his Defence was concerning the Witnesses and Testimony, that he made a long defence to; and if it be not good evidence, that parties that are of the same robberies may not accuse their fellow thieves, I think some must be unchanged that have been hanged: but that I shall not speak to, for I think not that *Mr. Hales* his judgment leads him to it; but if they were threatened, and should be made afraid of their lives, that were somewhat; but that is not the case here. The next is for two Witnesses: I might say, that by the Common Law of England, one witness was enough before the Law of *quinto Edwardi sexti* was made; for else it was not needfull

to be made; and *Mr. Hales* knows again, that as to Trial, those Lawes are repealed; but not to trouble you with these things, or to say wherein they must concur, I did crave the favour of you to read the Witnesses as they deposed, and I did tell you when it was by hear-say, and when upon knowledge, and when by two, three, and foure, to severall acts of *M. Loves* own actings, two, three, foure witnesses, I think they are number enough to accuse, and detect a person of as high quality. And for the last, for misprision of Treason, *M. Love* hath said that which never came into my thoughts, that such actings done by *M. Love* could be judged misprision, he that acted with them, consulted, and debated, and plotted, gave his judgement one way, moved to raise money, received intelligence, all brought to his house, and transacted there; I would appeal to *M. Hales* his judgment, whether this could be misprision of Treason, when a party acts in it, both the meetings at his own house, and both these debates of Commissions, and Instructions, and Letters, I think this goes as far beyond misprision, as Treason is beyond misprision; but seeing these are new cases before you, you have spent enough of your time, I shall not spend more to argue the cases that are not.

M. Love. I humbly crave leave that seeing my counsell some of them are rejected by the Court, as not fit to plead before you, and seeing another of them, *M. Maynard*, the necessity of his affairs is such, he could not be here this day to plead here, and seeing this worthy Gentleman came here unprepared, whose face I never saw till this morning, therefore I humbly pray there may be more time and counsell assigned me with your favour and leave, that they may fully debate the Argument before you, those matters of the Law which are under his hand, and the hands of the two worthy Gentlemen rejected by you to plead here, that others may be added to *M. Hales* to plead the matters of Law before you, and that I may have a copy of the Charge.

At. Gen. I hope wee have had delays enough, it is with the Court, now wee have done.

M. Love. And Sir, there are witnesses here present that will prove that which *M. Attorney-Generall* thought none could prove, to wit not onely generall threats, if they would not confesse in the generall, but promises of favour, and threatening of death if they would not testifie against me in particular, and I have manifold Exceptions touching the incompetency not onely of number, but quality; one Witness said, he could not in conscience, and did not swear till he was threatened, nay, fined by you, and drawne out of the Court; another Witness had money laid to him by *Cobbet*, which was given his wife, which did seem to conceal the bribery the more; but he confessed himselfe that the money was laid down in his house, and given him to make use of, and to be the price of my blood (Sir) to testifie against me: I have Witnesses to produce, *Major Adams* said, he should be hanged, if he did not testifie against me; for he had given information, and been in hire for many moneths together; *Major Cobbet*, and three other Messengers have come to him, and offered him preferment for four moneths together, if hee would reveale what hee calls a design against the Common-wealth, and he hath not revealed this till he had these promises of preferment; and did not declare against me till he was threatened by death if he did not do it; therefore I beseech you hear what Witnesses I can bring in to invalidate the testimonies of these men.

At. Gen. My Lord, it seems I must be for all; now *M. Love* begins with the Court, that you threatened them, and punished them; I appeale to all here, whether a Witness brought into a Court in matter of property, and refuse to take his Oath, whether that Court be not bound in justice to punish him, and yet if he shall see his error, and submit himself to do that which to justice belongs, then (I think) it is justice and mercy in you to remit him of both; and that is the case of this Gentleman; in conscience, he could not swear against him, a conscience well wrought upon, he could not in conscience sweare against him: for him it was done in the Court, and by the Court, and (I thinke) undeniably justified.

M. Love. He is not under an oath to this day, he hath declared it himself.

At. Gen. This is to satisfie other men, but it is not so regular, and orderly to be done; but my Lord, and the Court are pleased to give you a faire hearing, and proceedings, that no Exceptions may be taken to it: there was another that was as good as his word, that hee could not finde in his conscience to sweare against *Mr. Love*, and that was a Minister, that conscience deserved to be rectified more than five hundred pound comes to, and perpetual imprisonment: that man that cannot finde in his conscience to judge him that was a godly person (as hee thought) and against him hee must not give witness, not for Treason, not to save a Common-wealth.

wealth; and he hath had your sentence, and most justly; I thinke all that was, was too little, my Lord. Then for the rest, this is a discourse to satisfie people, the Spectators here; for surely these are extravagancies, and totall irregularities; he hath had his time to except, and heard to except, and said all that he hath said now; and so there is nothing more to be done, but now for us to rest in your judgments what you will do further.

M. Love. I beseech you, I acquainted your Lordship and the Court, that some of the Witnesses were not well, others I could not get them here present, but did make offer to bring Witnesses to prove against Major Adams, that he hath confessed himselfe he was threatened with death if he did not inform against me, and he said these words, he could not tell whether he should in conscience think rather better to be hanged then to come in against me; and he could swear only generalls, and could not sweare that ever I did write or receive Letters: and *M. Jaquel* himself, since he was sent away from the Court, hath said he was not under an Oath.

At. Gen. What course shall we hold? if you will not be regular, let the Court be regular: had you not time for to do it then? Did he not demand Indempnity for them? and rather than he would produce others to hurt themselves, he would rather die himself first.

M. Love. But these are not under a crime, I beseech you, the Court would be tender in matters of blood.

At. Gen. Be tender of justice.

L. Pres. I would you had been so too.

M. Love. This man declares himself he is not under an Oath to this day, he did but put his hand upon his buttoes.

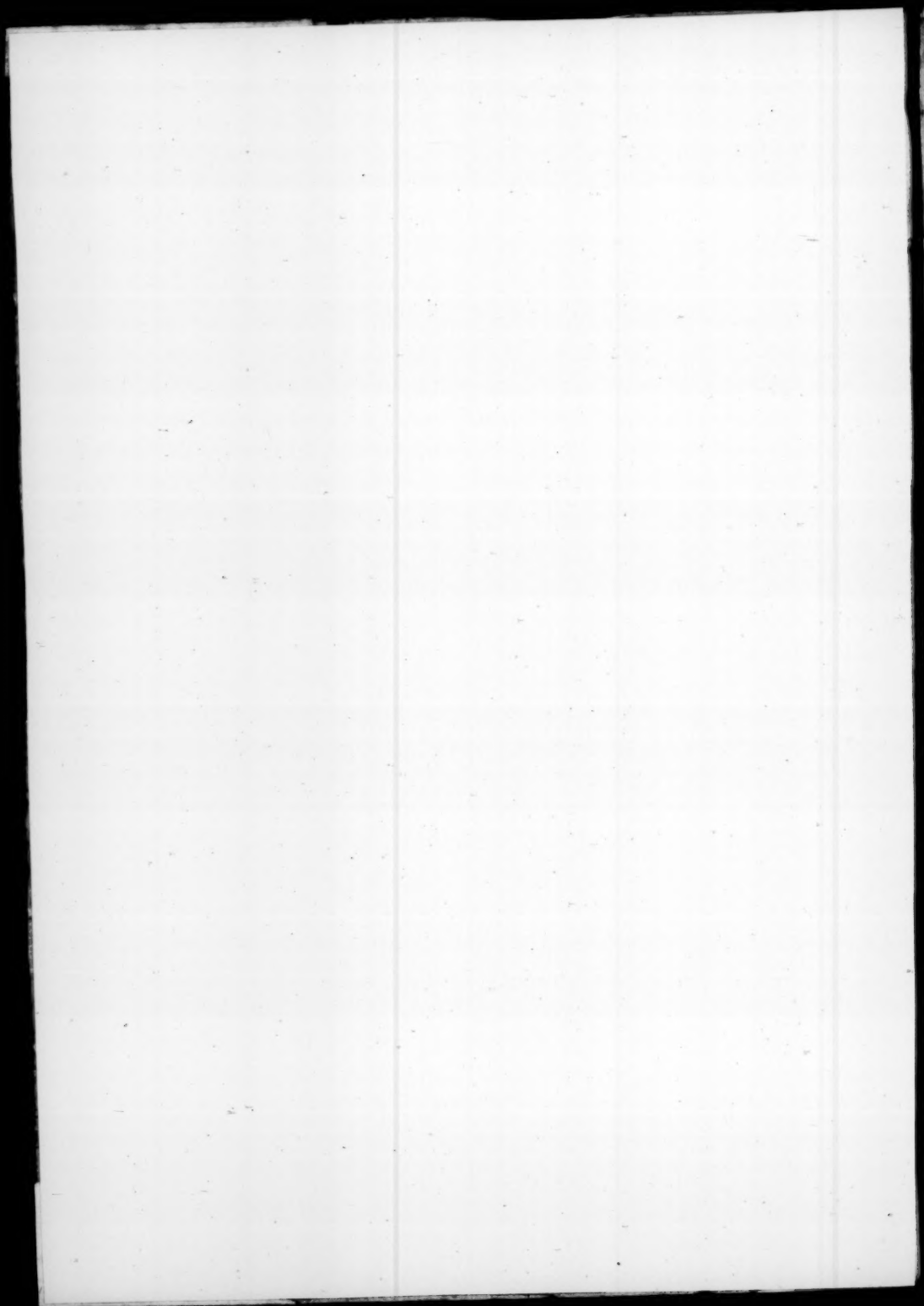
L. Pres. Those were your very words, and very uncivill and indiscreet; you have not spoke at any time yet, but you have hurt your self more than any body els hath, and yet your language is so liberal, that no man shall escape the lash of your tongue.

Mr. Love. I feare no man, my Lord.

At. Gen. That is a bold word.

L. Pres. You have as ill Comments as any man that wears a cap; your guiltiness appears in this you say; we have heard all this that you require before; those very words that you say of this man now particularly, go to them first, that he was saying, he was not under an Oath. It was said so again, and again, and again at that time we brought him, and before he was examined, holding up his hand, we asked him it, and he said he did; and put it to him again, and again, Are you under an Oath? till at the last he did conclude and testify he was under an Oath; I testify this before all the company here, this is noised abroad, again by many people, the care we had of that very man you speak of, you asked him three or four times then, and at the last upon the conclusion, he confessed himselfe he was under an Oath, hee did not doe as you doe, you will say things are true, but you will not speake those Truths before God in a testimoniall way, though some of your Witnesses that proved, said it was true in the presence of God, what they gave under their hands; these men that do thus, are no better than Jesuits in reality, though not in name. You made a Confession of misprision of Treason you said, but you have confessed Treason. I will tell you who did the like in the very words almost that you did, and that was Father *Garnet*, when hee came to see the evidence produced so full against him by those that were *participes criminis*, as you are, himselfe confessed when hee came to the last, Had I thought (saith hee) that the State had had such cleare prooffe against mee, I would have ingenuously confessed it, and not trifled with them as I have done: So you said, you did not thinke it would have been proved so farre as misprision; but when it was proved sufficiently in your apprehension, and convicted, and your counsell had informed you it could not be lesse than misprision, then you would ingenuously confesse, so did *Garnet*. The other witnesses that was threatened, it was testified by a worthy Capitaine; I speak it again, was not it debated as much as the wit of man could? did you not object that then that you do now? and did not the Court then satisfie you, or at least satisfie themselves that it was not so? For I tell you in that verie thing wherein you say he was threatened, it was told you, that the Capitaine that was here then, deposed what hee had done, and how hee had done it, and at what time it was delivered; for you were discovered long before that, and your Examinations taken long before that; upon this now when your Treason was discovered and declared by severall Witnesses, and that such a one was in confederacy, and I thinke the State might safely promise him life, and reward too; for there is more in the plot yet, then is yet found out, and that some are like to hear of within this fortnight, that were here, which is a dangerous thing; but this you did declare, and the Court was satisfied, that

e
f
s
n
u
ur
or
is
e
is
r,
J.
at



that all that was promised as a reward, was for discovering of a plot against the State: and that was lawfull by the Lawes of God and man. And now you bring Witnesse; you were at first demanded whether you would bring them or no; and you asked indemnity for them, and the next time you denyed you would bring none; and now you are asked what you have to offer to the Court, and after all this time, what come you to doe now? to prove that that was acted here in the Court; you say, we threatned them; true, that we did threaten some, and I think we went thus far, that if he would not, we would set five hundred pounds fine upon his head; but he would none of that, but came in again, and delivered his knowledg. But you had another of your own Robe too that came in, and bee would not testifie, and why? His conscience was tender; his science was perfect enough to speak against you; for hee was confederate with you, and hath confessed enough of it; but his conscience was tender: No man can tell here whose conscience is crazy, and tender; conscience is a thing betwixt God and man onely; and they that lay nothing upon their Consciences to prove their integrity, they had as good say nothing before a Judge; for though wee have a Law of Conscience in England, yet that Law is judged by rules; and therefore he, whoever he be that pretends Conscience, there are so many consciences, as there are men, and no men have power to judge of it but God; but Sir, for that cause that he would not for his tender conscience, we did set a fine of 500^l. upon him, and sentenced him to the Fleet till he paid it; we call not this terrifying, neither doth the Law; nor any reward favour nor affection, for the discovery of a Traitor, is no illegall act, this wee told you before; but you must have it again, and again, and again; so that you may delay, no time shall be omitted by you.

Mr. Love. I have but a few words more; your Lordship was pleased to say, that you could justifie promising rewards to those that would discover, and threatning punishments to those that would not; but you said, if I could prove promising of rewards or threatnings to them that would not testifie against me, they should be heard; now I produce not witnesses in generally, that they were promised favour or threatned if they would or would not; but I offer to produce witnesses that can witness against some of the particular witnesses, that said they should be hanged, if they did not witness against me; and this, as your Lordship promised, I humbly crave.

Mr. Gen. Truly he will not want suggestions, he hath had his time to prove it, and one favour I shall beg of the Court, that this your patience to *Mr. Love*, your just favour toward him, may be no president hereafter; but for this, when we closed the Evidence Saturday was sevensnight for the Commonwealth, he had till Wednesday following to make his Defence; for his witness he offered them, you offered to receive them, he said he would have none, now he comes to offer; we produce you no new witness, nor offered nothing since Saturday was sevensnight, if we come to witnesses again, we shall come to an aspersing one another, we shall make it a pretty endlessse work; we have done our parts, and followed the rules of Justice, and *Mr. Love* hath had his full liberty to justifie, to say what he could, and prove what he could for himselfe; if he neglect his own time, to his own perill be it; the Court I hope will not be guilty of it to alter the wayes of Justice.

Mr. Love. I could not compell witnesses, there was no *Sub poenas*, but they must come when they offer themselves.

L. Pres. You were asked, and you would produce none.

Mr. Love. They were not in a capacity to come, my Lord.

Mr. Gen. There is nothing resting more to be done, but now all being done (if you please my lord all being done) for the issue of the Fact, all his exceptions to the impeachments, which are matters of Law; we are now humbly craving your judgement upon this impeachment between the Keepers of the Liberty of England, and Master Love the Prisoner at the Bar. I now humbly demand your judgement.

Mr. Love. I humbly pray, that since I never saw the face of this worthy Gentleman, till this morning, and so could have no particular advice from him; that there might be longer time allowed to this Gentleman, and an addition of three Gentlemen more, and a copy of the Charge.

Mr. Gen. You have had more then ordinary Prisoners have had before, I will assure you, *Mr. Love*.

L. Pres. *M. Hales* you have heard a little opened of our passages and proceedings which you did not before, but every man else hath lift up his voice; you have gone over a great deal of the fact; now the matter of Law, for that of misprision, that will rest (I thinke) in the judgement of the Court there

there is no misprision laid, but Treason, and I think the Court will find a reason upon the proofs that are before them, they will not need to have any Argument of misprision, if the Court think there is sufficient Treason laid, then that Argument, we need not desire no more time for that, and if it be misprision, that the Court shall judge it so, then upon the matter there is no Charge against him for us to proceed upon: so that by that Charge, I cannot see what you can ground your Argument upon.

Mr. Hales. The Charge is not only for Treason, but for Treason and other High crimes, and misdemeanors.

At Gen. But not misprision.

Mr. Hales. Though the word be not in, we think it will reach it.

L. Pres. It will not indeed.

At Gen. We insist upon it for the Commonwealth, for the Charge is as it is laid.

L. Pres. For the two next, so I told M. Love before, and he spent two hours at the least in capitulating the evidence of the State, nor any thing of his own, for he gave no Witnesses; but he did go over the whole evidence of the State from point to point, and made, I think, himself (as he said) the Exceptions that were made against them; these he went over, though we might have shut him up at the first; for him to sum up that which was the duty of the Court, when he had no evidence, to sum up the Evidence of the State, which we might not have let him: but this he did; and it is our part to examine the Evidences, and the nature of them, and what the nature of the thing is, and how many Witnesses are to every point: whether there be two Witnesses to a point or no, cannot fall under dispute of law, it is matter of fact.

Mr. Hales. It is true, we are here only to do that duty that your Lordship enjoins us to (my Lord.) It is true, for us to dispute whether this evidence proveth such a thing or no, haply it may not belong to us to do that. But thus far, if your Lordship think fit, this may haply be allowable (with submission to the Court) that is, whether, if the proofs be admitted, this man positively proves thus, the other man proves positively thus; whether that these two proofs do make a proof of one fact, haply (if your Lordship shall so think fit) there may be somewhat of Law in that; that is, whether it make a double Testimony within the Statute of *Primo* and *Quinto*. For (with submission to your Lordship) the Statute of *Primo* and *Quinto* is not repealed as to point of Testimony; it is repealed as to the place from whence the trial is to come; but not in point of Witnesses, therein it may come in questionless (if your Lordship shall think fit :) But truly, I have not seen one word of the evidence from the beginning to the end; and if so be that any matter should rise, that the Court should think fit, as well as proper for me to offer in the defence of this Gentleman, I must profess I cannot, unless I had seen the things; for I have not seen one word.

L. Pres. For seeing the Evidence further then memory, you nor no man else ought to know, though we have given leave to write; and therefore though we have given leave to take notice of them, yet that is more then ever any Court did, or we need to have done, but onely to trust to their own memories: but in that you speak of now, for you to have day to argue, when you are not able to say, nor we neither, that there is any such thing. Did you ever hear such a thing, to pray day to argue that you do not know positively it is so?

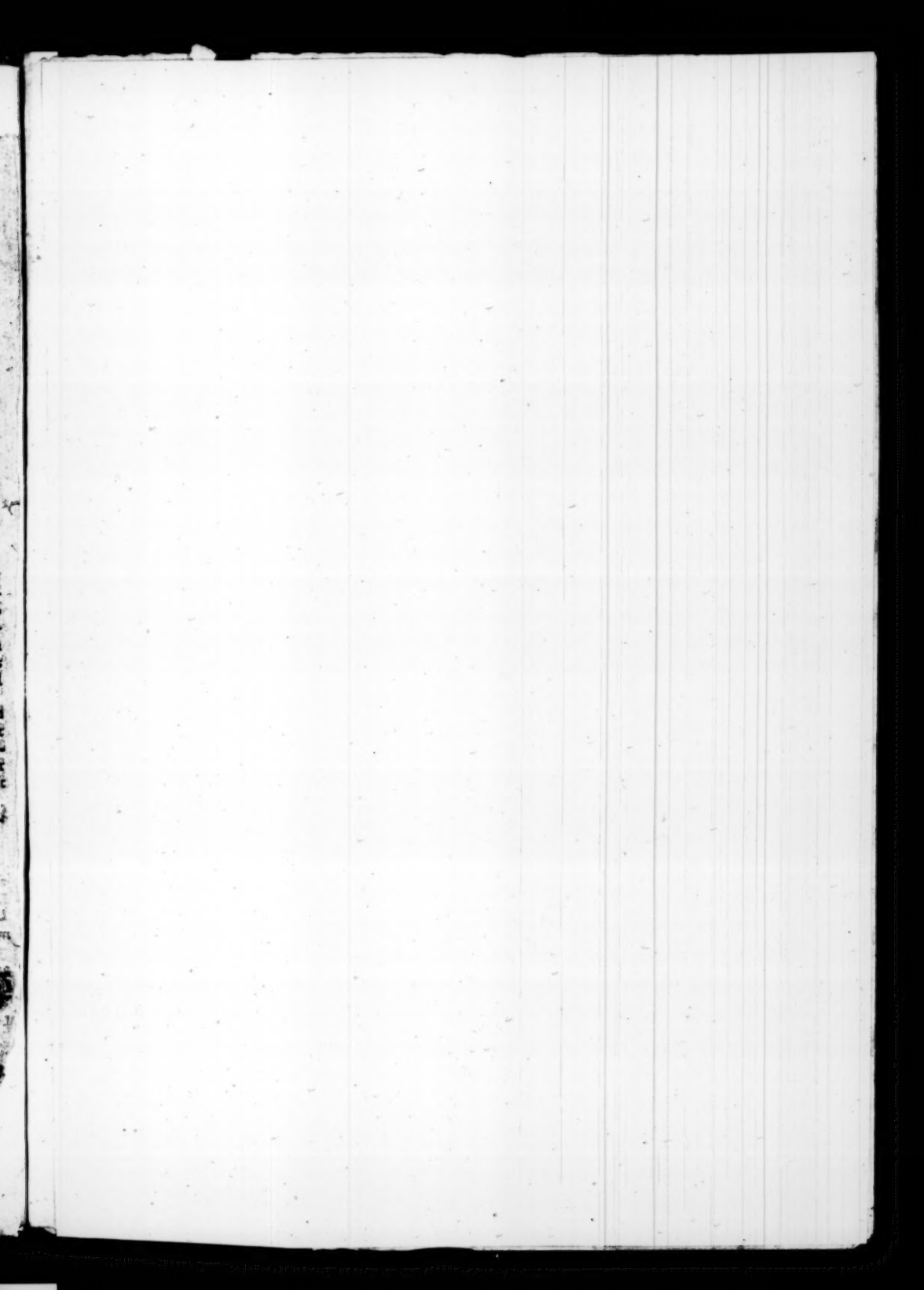
At Gen. We have spent a great deal of time, and all that can be said will be but to run a round. What is to be done, is your own consultation among your selves.

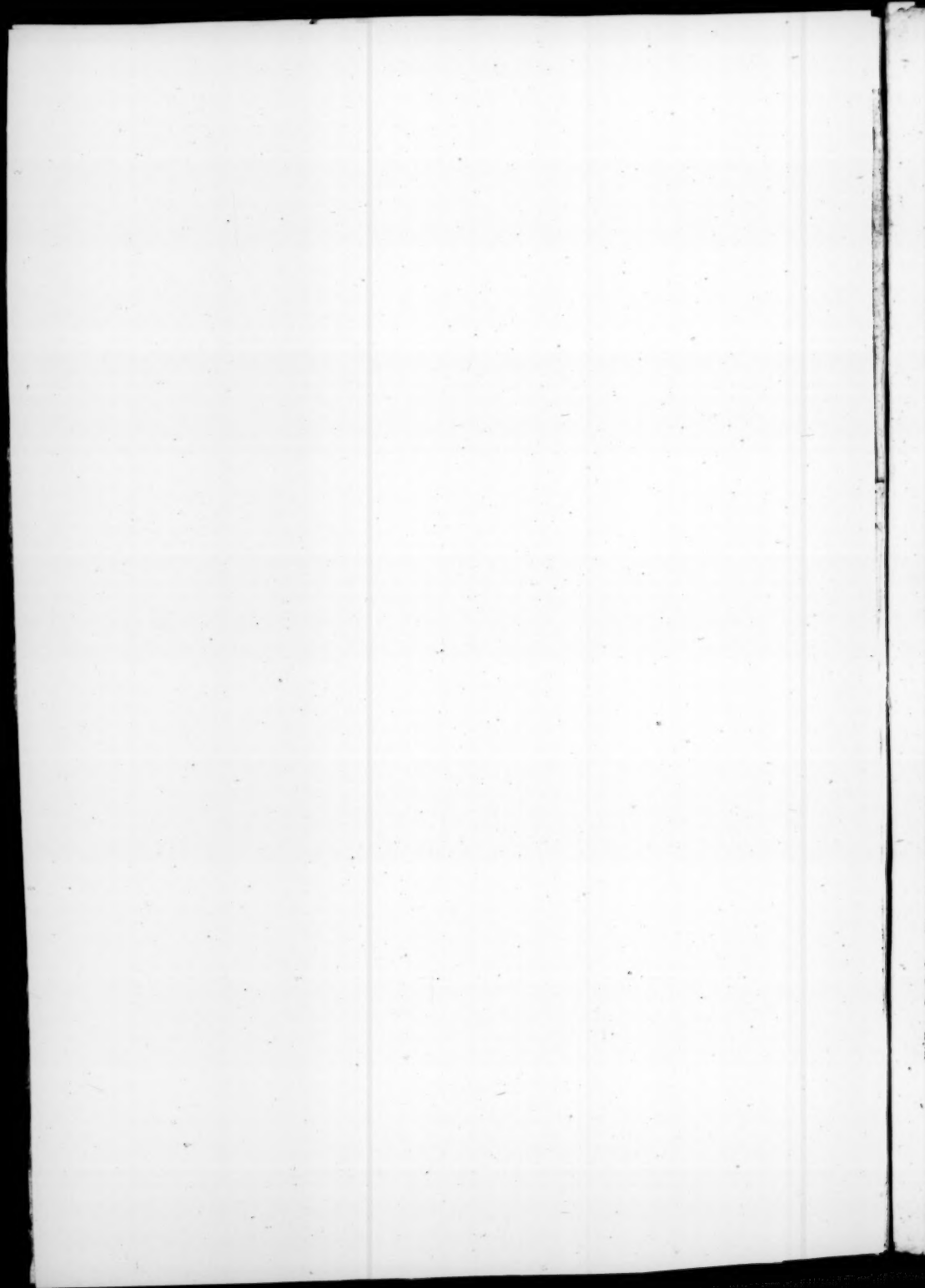
L. Pres. Withdraw your prisoner.

Mr. Love. I beseech you, allow me time for Councill.

The Court adjourns.

Er. J. M.
12/20/10





Another of Master *Loves* to his Wife.*More dear to me than ever,*

IT adds to my rejoycing, that I have so good and gracious a wife to part with for the Lord Jesus: In thy grief, I have been grieved; but in thy joy, I have been comforted. Surely, nature could never help thee to bear so heavy a stroke, with so much silence and submission to the hand of God! O dearest, every line thou writest, gladdeth my heart. I dare not think that there is such a creature as *May Love* in the world; for *Kir*, and *Maid*, I can think of them without trouble, leaving them to so good a God, and so good a Mother. Be comforted concerning thy Husband, who may more honour God in his death than in his life; the will of the Lord be done, he is fully satisfied with the hand of God. Though there be but little between him and death, he knows, there is but little between him and heaven; and that ravisheth his heart. The Lord blefs and require thee for thy wife and good counsel; thou hast prevegned me, the very things I thought to have written to thee, thou hast written to me: I have had more comfort from thy gracious letter, than from all the counsel I have had from any else in the world; well, be assured, we shall meet in heaven. I rest, till I rest in heaven.

From the Tower,
the Lords Day.

Thy dying, but comforted Friend,

CHRISTOPHER LOVE.

Another of Master *Loves* to his Wife.*My dearest delight on Earth,*

I Was fast asleep when thy Note came, I blefs God, I break not an hours sleep for all my sufferings; I know they work for me a *more exceeding and eternal weight of glory*. I slept this night from ten at night, till seven in the morning, and never waked. My Dear, I am so comforted in the gracious supports God gives thee, that my burdens are the lighter on my shoulders, because they are not so heavy on thine; or if they be heavy, yet that God helps thee to bear them. The Lord keep it in the purpose of our hearts for ever, to submit to the good pleasure of God. I blefs God I do find my heart in as quiet and composed a temper as ever I did in all my life. I am till I dye,

From the Tower,
August 18. 1651.

Thy tender hearted Husband,

CHRISTOPHER LOVE.

Master *Loves* last Letter to his Wife, on the day he suffered.*My most gracious Beloved,*

I Am now going from a Prison to a Palace; I have finished my work, I am now to receive my wages; I am going to heaven, where are two of my children, and leaving thee on the earth where are three of my babes; those two above need not my care, but the three below need thine. It comforts me to think two of my children are in the bosome of *Abraham*, and three of them will be in the arms and care of so tender and godly a Mother: I know thou art a woman of a sorrowfull spirit, yet be comforted: though thy sorrow be great for thy Husbonds going out of the world; yet thy pains shall be the less in bringing thy child into the world; thou shalt be a joyfull Mother, though thou beest a sad Widdow. God hath many mercies in store for thee; the prayers of a dying Husband for thee will not be lost. To my shame I speak it, I never pray'd so much for thee at liberty, as I have done in prison. I cannot write more, but I have a few practical counsels to leave with thee, viz.

1. Keep under a sound, orthodox, and soul-searching Ministry; Oh there are many deceivers gone out into the world, but Christs sheep know his voice, and a stranger will they not follow. Attend on that Ministry that teaches the way of God in truth, and follow *Solomons* advice, Prov. 19. 27. *Cease to bear instruction that causes to erre from the ways of knowledg.*

2. Bring up thy children in the knowledg and admonition of the Lord: the mother ought to be a teacher in the fathers absence, Prov. 19. 27. *The words which his mother taught him: and Timothy was instructed by his Grandmother Lois, and his mother Eunice, 2 Tim. 1. 5.*

3. Pray

3. Pray in thy family daily, that thy dwelling may be in the number of the families that do call on God.

4. Labour for a meek and quiet spirit, which is in the sight of God of great price, 1 *Pet.* 3. 4.

5. Pore not on the comforts thou wantest, but on the mercies thou hast.

6. Look rather at Gods end in afflicting, than at the measure and degree of thy afflictions.

7. Labour to clear up thy evidences for heaven, when God takes from thee the comforts of earth, that as thy sufferings do abound, so thy consolations in Christ may abound much more, 2 *Cor.* 1. 4.

8. Though it is good to maintain a holy jealousy of the deceitfulness of thy heart, yet it is evill for thee to cherish fears and doubts, about the truth of thy graces; If ever I had confidence touching the grace of another, I have confidence of grace in thee; I can say of thee as *Peter* did of *Silvanus*, I am perswaded that this is the grace of God wherein thou standest, 1 *Pet.* 5. 12. Oh my dear soul, wherefore dost thou doubt, whose heart hath been upright, whose walkings have been holy, &c. I could venture my soul in thy souls stead, such a confidence have I of thee.

9. When thou findest thy heart secure, presumptuous and proud, then pore upon corruption, more than upon grace; but when thou findest thy heart doubting and unbelieving, then look on thy graces, not on thy infirmities.

10. Study the covenant of grace and merits of Christ, and then be troubled if thou canst. Thou art interested in such a covenant that accepts purposes for performances, desires for deeds, sincerity for perfection, the righteousness of another, viz. that of Jesus Christ, as if it were thine own. Oh my Love! rest, rest then in the love of God, in the bosome of Christ.

11. Swallow up thy will in the will of God; it is a bitter cup we are to drink, but it is the cup our Father hath put into our hands. When *Paul* was to go to suffer at *Jerusalem*, the Christians could say, The will of the Lord be done; Oh, say thou, when I go to Tower-hill, The will of the Lord be done.

12. Rejoyce in my joy; to mourn for me inordinately, argues that either thou enviest, or suspectest my happiness. The joy of the Lord is my strength, oh let it be thine also. Dear wife, farewell; I will call thee wife no more, I shall see thy face no more: yet I am not much troubled, for now I am going to meet the Bridegroom the Lord Jesus Christ, to whom I shall be eternally married.

From the Tower of London,
22th August, 1651.
The day of my glorification.

Thy Dying, yet mist

Affectionate Friend till death,

CHRISTOPHER LOVE.

F I N I S.

8. 6. 11.
12/29/10

